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# FEDERAL REGISTER

VOLUME 7      1934      NUMBER 169

Washington, Thursday, August 27, 1942

## Regulations

### TITLE 8—ALIENS AND NATIONALITY

#### Chapter I—Immigration and Naturalization Service

[Second Supplement to General Order No. C-24<sup>1</sup>]

#### PART 90—DEPARTMENTAL ORGANIZATION AND AUTHORITY

##### AMENDED REGULATIONS GOVERNING DEPARTMENTAL ORGANIZATION AND AUTHORITY

AUGUST 15, 1942.

Pursuant to the authority conferred by sections 161 and 360 of the Revised Statutes, as amended (5 U.S.C. 22, 311); section 37 (a) of the Act of June 28, 1940 (54 Stat. 675; 8 U.S.C. 458); section 1 of Reorganization Plan No. V (5 F.R. 2223) and all other authority conferred by law, the following changes are hereby prescribed in Title 8, Chapter I, Part 90 of the Code of Federal Regulations:

Section 90.1 is amended to read as follows:

§ 90.1 *Commissioner of Immigration and Naturalization; powers.* Under the general direction of the Attorney General, the Commissioner of Immigration and Naturalization (hereinafter called the Commissioner) shall supervise and direct the administration of the Immigration and Naturalization Service and, subject to the limitation of other provisions of this part, shall have authority to exercise all powers of the Attorney General relating to the administration of that Service and the administration of the immigration, nationality, alien registration, and related laws.

The references in §§ 90.14, 90.16, 90.17, and 90.49 to "Special Assistant in Charge" are amended to read "Commissioner".

(Sec. 327, 54 Stat. 1150, 8 U.S.C. 727; sec. 23, 39 Stat. 892, 8 U.S.C. 102; sec. 24, 43 Stat. 166, 8 U.S.C. 222; sec. 1, Reorg. Plan No. V, 5 F.R. 2132, 2223; sec. 37 (a), 54

<sup>1</sup> 5 F.R. 3502; 6 F.R. 6752.

Stat. 675, 8 U.S.C. 458; secs. 161, 360, R.S., 5 U.S.C. 22, 311)

FRANCIS BIDDLE,  
Attorney General.

Approval recommended:

EARL G. HARRISON,  
*Commissioner of Immigration and Naturalization.*

[F. R. Doc. 42-8324; Filed, August 25, 1942; 2:57 p. m.]

### TITLE 10—ARMY: WAR DEPARTMENT

#### Chapter IX—Transport

#### PART 93—TRANSPORTATION OF INDIVIDUALS

##### RESTRICTION ON TRANSPORTATION OF DEPENDENTS AND MOVEMENT OF HOUSEHOLD GOODS

Section 93.8<sup>1</sup> (a) (1) is hereby amended to read as follows:

§ 93.8 *Restriction on transportation of dependents and movement of household goods during the present war—(a) Regulations governing.* \* \* \*

(1) All military personnel and civilian employees of the War Department who, prior to September 1, 1942, are on duty at a place designated by competent authority and who are thereafter assigned or transferred from their post, camp, or station or location are authorized to move their dependents and household goods at Government expense to such location in the United States as may be designated by the military person or civilian employee concerned. Once dependents and household goods have been moved at Government expense on or after September 1, 1942, neither dependents nor household goods will again be moved at Government expense.

A movement of dependents or household goods which is commenced under proper orders prior to September 1, 1942, but not completed by that date, or a movement begun on or after September 1, 1942, under the control of proper local

(Continued on next page)

<sup>1</sup> 7 F.R. 6668.

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Published daily, except Sundays, Mondays, and days following legal holidays by the Division of the Federal Register, The National Archives, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500), under regulations prescribed by the Administrative Committee, approved by the President.

The Administrative Committee consists of the Archivist or Acting Archivist, an officer of the Department of Justice designated by the Attorney General, and the Public Printer or Acting Public Printer.

The daily issue of the FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for \$1.25 per month or \$12.50 per year, payable in advance. Remit money order payable to the Superintendent of Documents directly to the Government Printing Office, Washington D. C. The charge for single copies (minimum, 10¢) varies in proportion to the size of the issue.

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Army authorities, provided such authorities are notified prior to that date that dependents or household goods are ready and waiting movement under proper orders, will not be construed to prevent one additional movement of dependents and household goods at Government expense on or after September 1, 1942, as herein authorized. (R.S. 161; 5 U.S.C. 22, and Act of June 5, 1942, Public Law 580, 77th Congress) [Cir. 261, W. D., August 4, 1942, as amended by Cir. 279, W. D., August 21, 1942]

[SEAL]

J. A. ULIO,  
Major General,  
The Adjutant General.

[F. R. Doc. 42-8336; Filed, August 26, 1942; 9:24 a. m.]

#### Chapter X—Areas Restricted for National Defense Purposes

[Public Proclamation No. 1]

##### PART 105—ESTABLISHMENT OF MILITARY AREAS

##### SOUTHERN DEFENSE COMMAND, MILITARY AREA NO. 1

Headquarters Southern Defense Command, San Antonio, Texas

MAY 30, 1942.

To: The People within Alabama, Arkansas, that part of Florida west of the Apalachicola River, Louisiana, Mississippi, New Mexico, Oklahoma, Tennessee, and Texas.

Whereas by virtue of orders issued by the War Department on March 17, 1941, as amended by orders issued by the War Department on December 20, 1941, on March 18, 1942, on March 31, 1942 and on April 19, 1942, that portion of the continental United States included in the States of Alabama, Arkansas, that part of Florida west of the Apalachicola River, Louisiana, Mississippi, New Mexico, Oklahoma, Tennessee, and Texas has been established as the Southern Defense Command under my command; and

Whereas by Executive Order 9066, dated February 19, 1942, the President of the United States authorized and directed the Secretary of War and the Military Commanders whom he may from time to time designate, whenever he or any such designated commander deems such action necessary or desirable to prescribe military areas in such places and of such extent as he or the appropriate Military Commander may determine, with authority over such military areas as in such Executive Order prescribed; and

Whereas the Secretary of War on April 22, 1942, designated the undersigned as Military Commander to carry out the duties and responsibilities imposed by said Executive Order for that portion of the United States embraced in the Southern Defense Command; and

Whereas the Southern Defense Command embraces eight States and part of another State, inhabited by millions of loyal citizens of the United States, and thousands of persons not yet citizens of the United States, but equally loyal; and

Whereas the economic life of this large portion of the population of our country, dwelling within the Southern Defense Command, should be disturbed as little as may be consistent with requirements of adequate national defense and internal security; and

Whereas the Southern Defense Command embraces portions of the Gulf Coast and southern land frontier of the United States and by its geographical location is particularly subject to attack, and, in connection therewith, is subject to espionage and acts of sabotage, thereby requiring the adoption of military measures necessary to establish safeguards against such enemy operations:

Now therefore, I, Walter Krueger, Lieutenant General, U. S. Army, by virtue of the authority vested in me by the President of the United States and by the Secretary of War and my powers and prerogatives as Commanding General of the Southern Defense Command, charged with the defense of the Gulf Coast and land frontier within my Command, do hereby declare and proclaim that:

§ 105.1 Military Area No. 1, Southern Defense Command. (a) The present situation requires as a matter of military necessity the establishment in the territory embraced in the Southern Defense Command within continental United

17 F.R. 1407.

States, of military areas and for that purpose, I do hereby prescribe the portions of the several States hereinafter designated and as the same are shown on the map attached hereto and marked Annex No. 1,<sup>2</sup> to be military areas.

(1) Florida Military Area No. 1 embraces all territory west of Apalachicola River within the following counties in the State of Florida, to wit: Bay, Escambia, Franklin (that portion west of Apalachicola River), Gulf, Okaloosa, Santa Rosa and Walton.

(2) Alabama Military Area No. 1 embraces all territory within the following counties in the State of Alabama to wit: Baldwin and Mobile.

(3) Mississippi Military Area No. 1 embraces all territory within the following counties in the State of Mississippi to wit: Hancock, Harrison and Jackson.

(4) Louisiana Military Area No. 1 embraces all territory within the following parishes in the State of Louisiana, to wit: Ascension, Assumption, Calcasieu, Cameron, East Baton Rouge, Iberia, Iberville, Jefferson, Lafayette, La Fourche, Livingston, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Mary, St. Martin, St. Tammany, Tangipahoa, Terrebonne, Vermilion and West Baton Rouge.

(5) Texas Military Area No. 1 embraces all territory within the following counties in the State of Texas, to wit: Aransas, Brazoria, Brewster, Calhoun, Cameron, Chambers, Culberson, Dimmit, El Paso, Galveston, Harris, Hidalgo, Hudspeth, Jackson, Jeff Davis, Jefferson, Kleberg, Kenedy, Kinney, Liberty, Matagorda, Maverick, Nueces, Orange, Pecos, Presidio, Refugio, San Patricio, Starr, Terrell, Val Verde, Victoria, Webb, Willacy and Zapata.

(6) New Mexico Military Area No. 1 embraces all territory within the following counties in the State of New Mexico, to wit: Dona Ana, Grant, Hidalgo and Luna.

(b) The functional subdivisions of the Southern Defense Command for purposes of enforcement of regulations and orders issued from this Headquarters are the existing Corps Areas, namely, the Eighth Corps Area, with Headquarters at Fort Sam Houston, Texas, and the Fourth Corps Area, with Headquarters at Atlanta, Georgia. The Commanders of said Corps Areas are charged with the responsibility of the enforcement of the restrictions and orders pertaining to their respective Corps Areas.

(c) The protection of American commerce and that of the United Nations from damage or destruction by enemy attack, involves the effective control of artificial lighting along the Southern boundaries of the Southern Defense Command and for a reasonable distance inland therefrom. Corps Area commanders are designated as the authorities to promulgate the necessary restrictions and orders for control, prescribed by the Commanding General, Southern Defense Command.

(d) Wilful violation of such restrictions or orders by an alien enemy, or

repeated careless violations, even if not wilful, are cause for expulsion, internment or prosecution; similar violations by persons other than alien enemies are cause for expulsion or prosecution.

(e) Nothing contained herein shall be construed as limiting or modifying the duty and responsibility of the Department of Justice under the proclamations of the President of December 7th and 8th, 1941, insofar as the enforcement of rules and regulations for the conduct and control of alien enemies is concerned, or otherwise.

(f) The Corps Areas in the Southern Defense Command, each within its respective sphere of activities, and such federal, State, municipal and local agencies as the Commanding General, Southern Defense Command, with the consent of such agencies, may from time to time deem advisable specifically to designate, are hereby designated as the agencies to enforce the provisions of this proclamation and such subsequent proclamations, announcements, restrictions and orders as he may issue; and these agencies, under the coordination of the Commanding General, Southern Defense Command, shall have jurisdiction to conduct the investigations necessary in their respective enforcement thereof.

(g) It is requested that State and municipal police, and other civilians within the Military Areas established by this proclamation, assist the agencies charged with enforcing these restrictions by reporting to them the names and addresses of all persons believed to have violated these restrictions, and such other information as may be called for by these agencies.

(h) Copies of this proclamation and all subsequent proclamations, announcements, restrictions and orders issued hereunder will be displayed in suitable public places throughout the military areas in the Southern Defense Command. It shall be the duty of every person found within such military areas to familiarize himself with the terms of every proclamation, announcement, restriction, or order issued by this Headquarters.

[SEAL]

WALTER KRUEGER,  
Lieutenant General,  
Commanding.

Confirmed:

J. A. ULIO,  
Major General,  
The Adjutant General.

[F. R. Doc. 42-8335; Filed, August 26, 1942;  
9:24 a. m.]

## TITLE 16—COMMERCIAL PRACTICES

### Chapter I—Federal Trade Commission

[Docket No. 4348]

#### PART 3—DIGEST OF CEASE AND DESIST ORDERS

##### CUTTER LABORATORIES

§ 3.6 (a) 10) *Advertising falsely or misleadingly—Comparative data or merits:* § 3.6 (b) *Advertising falsely or mis-*

*leadingly—Competitors and their products—Competitors' products:* § 3.6 (t) *Advertising falsely or misleadingly—Qualities or properties of product:* § 3.6 (x) *Advertising falsely or misleadingly—Results:* § 3.6 (y) 10) *Advertising falsely or misleadingly—Scientific or other relevant facts:* § 3.48 (b) *Disparaging competitors and their products—Goods—Qualities or properties.* In connection with offer, etc., of respondent's vaccine preparation designated "Blacklegol" or "Blackleg Bacterin Aluminum Hydroxide Adsorbed", or any other similar product, (1) representing in any manner, either directly or by implication, that respondent's preparation Blacklegol is 100 percent efficient or 100 percent effective in giving immunity to the disease of blackleg; (2) using statements or representations which unfairly disparage vaccines sold and distributed by respondent's competitors or which represent, either directly or by implication, that the efficiency or effectiveness of blackleg concentrated bacterin or blackleg cultural aggressin is equal to only 50 percent of that of respondent's preparation Blacklegol in providing immunity to the disease of blackleg; (3) using any specific percentage to designate the immunizing value of respondent's preparation Blacklegol or its comparative immunizing value with other preparations unless such percentage is based upon controlled experiments sufficient to definitely establish the percentage value claimed; and (4) using the terms "100 percent efficient" or "50 percent efficient," or any other percentage or comparative percentage, in describing manufacturing procedure or production wastes, in such a way as to imply that such percentages apply to immunizing effectiveness; prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U.S.C., sec. 45b) [Cease and desist order, Cutter Laboratories, Docket 4348, August 14, 1942]

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 14th day of August, A. D. 1942.

This proceeding having been heard by the Federal Trade Commission on the complaint of the Commission, answer of the respondent, testimony and other evidence taken before trial examiners of the Commission theretofore duly designated by it, in support of the allegations of said complaint and in opposition thereto, report of the trial examiners upon the evidence and exceptions filed thereto, briefs filed in support of the complaint and in opposition thereto, and oral argument of counsel; and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act:

It is ordered, That the respondent, Cutter Laboratories, a corporation, its officers, representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, and distribution of its vaccine preparation now designated "Blacklegol" or "Blackleg Bacterin

<sup>2</sup>Filed as part of original document.

Aluminum Hydroxide Adsorbed" or any other product of substantially similar composition or possessing substantially similar properties, whether sold under the same name or under any other name in commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

(1) Representing in any manner, either directly or by implication, that respondent's preparation Blacklegol is 100 percent efficient or 100 percent effective in giving immunity to the disease of blackleg;

(2) The use of statements or representations which unfairly disparage vaccines sold and distributed by respondent's competitors or which represent, either directly or by implication, that the efficiency or effectiveness of blackleg concentrated bacterin or blackleg cultural aggrassin is equal to only 50 percent of that of respondent's preparation Blacklegol in providing immunity to the disease of blackleg;

(3) The use of any specific percentage to designate the immunizing value of respondent's preparation Blacklegol or its comparative immunizing value with other preparations unless such percentage is based upon controlled experiments sufficient to definitely establish the percentage value claimed;

(4) The use of the terms "100 percent efficient" or "50 percent efficient," or any other percentage or comparative percentage, in describing manufacturing procedure or production wastes, in such a way as to imply that such percentages apply to immunizing effectiveness.

It is further ordered, That the respondent shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which it has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON,  
Secretary.

[F. R. Doc. 42-8352; Filed, August 26, 1942;  
11:45 a. m.]

## TITLE 30—MINERAL RESOURCES

### Chapter III—Bituminous Coal Division

[Docket No. A-1577]

#### PART 321—MINIMUM PRICE SCHEDULE, DISTRICT NO. 1

##### ORDER GRANTING RELIEF

Order granting temporary relief and conditionally providing for final relief in the matter of the petition of District Board No. 1 for the establishment of

price classifications and minimum prices for the coals of certain mines in District No. 1.

An original petition, pursuant to section 4 II (d) of the Bituminous Coal Act of 1937, having been duly filed with this Division by the above-named party, requesting the establishment, both temporary and permanent, of price classifications and minimum prices for the coals of certain mines in District No. 1; and

It appearing that a reasonable showing of necessity has been made for the granting of temporary relief in the manner hereinafter set forth; and

No petitions of intervention having been filed with the Division in the above-entitled matter; and

The following action being deemed necessary in order to effectuate the purposes of the Act;

It is ordered, That, pending final disposition of the above-entitled matter, temporary relief is granted as follows: Commencing forthwith, § 321.7 (Alpha-

betical list of code members) is amended by adding thereto Supplement R, and § 321.24 (General prices) is amended by adding thereto Supplement T, which supplements are hereinafter set forth and hereby made a part hereof.

It is further ordered, That pleadings in opposition to the original petition in the above-entitled matter and applications to stay, terminate or modify the temporary relief herein granted may be filed with the Division within forty-five (45) days from the date of this Order, pursuant to the Rules and Regulations Governing Practice and Procedure before the Bituminous Coal Division in Proceedings Instituted Pursuant to section 4 II (d) of the Bituminous Coal Act of 1937.

It is further ordered, That the relief herein granted shall become final sixty (60) days from the date of this Order, unless it shall otherwise be ordered.

Dated: August 15, 1942.

[SEAL] E. BOYKIN HARTLEY,  
Acting Director.

#### TEMPORARY AND CONDITIONALLY FINAL EFFECTIVE MINIMUM PRICES FOR DISTRICT NO. 1

NOTE: The material contained in these supplements is to be read in the light of the classifications, prices, instructions, exceptions and other provisions contained in Part 321, Minimum Price Schedule for District No. 1 and supplements thereto.

##### FOR ALL SHIPMENTS EXCEPT TRUCK

#### § 321.7 Alphabetical list of code members—Supplement R

[Alphabetical listing of code members having railway loading facilities, showing price classifications by size group numbers]

Mine index No.	Code member	Mine name	Subdistrict No.	Seam	Shipping point	Railroad	Freight origin group No.	1	2	3	4	5
3613	Angert, Walter E.....	Walter E. Angert.....	16	E	Saint Benedict, Pa.	NYC...	44	(†)	(†)	E	(†)	(†)
3575	Armagost & Cugini (Charles B. Armagost).	A. & C.....	37	B	Hooversville, Pa....	B&O....	100	(†)	(†)	E	(†)	(†)
2080	Bathgate, George L.....	Bathgate.....	29	E	Johnstown, Pa.....	J&SC...	48	(†)	(†)	F	(†)	(†)
3633	Christy Coal Co., H. J. (H. J. Christy).	Reesedale (s).....	10	B	Reesedale, Pa.....	P&S....	119	(†)	(†)	H	(†)	(†)
3638	Christy Coal Co., H. J. (H. J. Christy).	Reesedale (d).....	10	B	Reesedale, Pa.....	P&S....	119	(†)	(†)	H	(†)	(†)
3269	Drifting Coal Co. (Elizabeth V. Kelley).	Drifting #2.....	8	B	Winburne, Pa.....	NYC...	44	(†)	(†)	H	(†)	(†)
1305	DuBois Moshannon Coal Co. (J. M. Bloom).	Wildcat.....	6	D	Du Bois, Pa.....	B&O....	113	E	(†)	E	E	(†)
3697	Elder Brothers (Ralph Elder).	Elder Brothers #2.....	4	B	Reidsburg, Pa.....	NYC...	30	(†)	(†)	G	(†)	(†)
3615	Fuller, George.....	Fuller.....	12	E	Hooverhurst, Pa....	NYC...	44	(†)	(†)	G	(†)	(†)
3694	Gulbranson, Inc., W. O.	Imperial #5.....	13	A	Houtzdale, Pa.....	PRR....	45	H	H	H	H	H
3693	Gulbranson, Inc., W. O.	Imperial #6.....	13	D	Houtzdale, Pa.....	PRR....	45	D	D	D	D	D
3695	Gulbranson, Inc., W. O.	Imperial #7.....	13	C <sup>1</sup>	Houtzdale, Pa.....	PRR....	45	E	E	E	E	E
3696	King Coal Company.....	Mauk #2.....	5	B	Sprankle Mills, Pa.	P&S....	119	E	E	E	E	E
2475	Montgomery, Melvin.....	Montgomery.....	6	E	Lane's Mills, Pa. 1	B&O....	113	F	(†)	*	F	(†)
711	Montgomery, Melvin.....	Montgomery #2.....	6	E	Lane's Mills, Pa. 1	B&O....	113	F	(†)	*	F	(†)
3692	Producers Economy Coal, Inc.	Gonzales.....	9	C <sup>1</sup>	Karthus, Pa.....	NYC...	44	(†)	(†)	E	E	(†)
3612	Wilkinson, James A.....	Wilkinson.....	18	C <sup>1</sup>	Dean, Pa.....	PRR....	52	(†)	(†)	E	(†)	(†)

\* Denotes new shipping point. Shipping point at Coal Glen, Pa., shall no longer be applicable.

† Indicates prices previously established for this Size Group.

‡ Indicates no classification or prices effective for this Size Group.

## FOR TRUCK SHIPMENTS

## § 321.24 General prices—Supplement T

[Prices in cents per net ton for shipment into all market areas]

Code member index	Mine index No.	Mine	Subdistrict No.	County	Seam	All lump coal double screened, top size 2" and over	Double screened, top size 2" and under	Run of mines modified R/M	2" and under slack	3/4" and under slack
						1	2	3	4	5
Altman, H. W.	3210	H. W. Altman	12	Indiana	E	(†)	(†)	215	(†)	(†)
Angert, Walter E.	3613	Walter E. Angert	16	Cambria	E	(†)	(†)	225	(†)	(†)
Armogost & Cugini (Charles B. Armogost)	3575	A. & C.	37	Somerset	B	(†)	(†)	225	(†)	(†)
Christy Coal Co., H. J. (H. J. Christy)	3633	Reesdale (s)	10	Armstrong	B	235	215	215	195	185
Christy Coal Co., H. J. (H. J. Christy)	3638	Reesdale (d)	10	Armstrong	B	235	215	215	195	185
DuBois Mosbannon Coal Co. (J. M. Bloom)	1305	Wildcat	6	Clearfield	D	250	(†)	(*)	215	(†)
Elder Brothers (Ralph Elder)	3697	Elder Brothers #2	4	Clarion	B	240	215	215	200	190
Fike, Lloyd & Allen (Allen Fike)	3691	Fike	41	Somerset	E	(†)	(†)	220	(†)	(†)
Fuller, George	3615	Fuller	12	Indiana	E	(†)	(†)	215	(†)	(†)
Gulbranson, Inc., W. O.	3694	Imperial #5	13	Clearfield	A	235	210	210	200	190
Gulbranson, Inc., W. O.	3693	Imperial #6	13	Clearfield	D	255	230	230	220	210
Gulbranson, Inc., W. O.	3695	Imperial #7	13	Clearfield	C'	250	225	225	215	205
King Coal Company	3696	Mauk #2	5	Jefferson	B	250	225	225	215	205
Myers, Paul M. & Kenneth E. (Paul M. Meyers)	3602	Meyers	41	Somerset	Mahoning	(†)	(†)	210	(†)	(†)
Montgomery, Melvin	2475	Montgomery	6	Jefferson	E	245	(†)	(*)	210	(†)
Montgomery, Melvin	711	Montgomery #2	6	Jefferson	E	245	(†)	(*)	210	(†)
Producers Economy Coal, Inc.	3692	Gonzales	9	Clearfield	C'	(†)	(†)	225	215	(†)
Wilkinson, James A.	3612	Wilkinson	18	Cambria	C'	(†)	(†)	225	(†)	(†)
Zelanko Brothers (John Calvin Zelanko)	3629	Zelanko	39	Bedford	Barnett	(†)	(†)	240	(†)	(†)

\*Indicates prices previously established for this Size Group.

†Indicates no prices or classification effective for this Size Group.

[F. R. Doc. 42-8296; Filed, August 25, 1942; 11:26 a. m.]

[Docket No. A-1542]

PART 322—MINIMUM PRICE SCHEDULE,  
DISTRICT NO. 2

## ORDER GRANTING RELIEF

Order granting temporary relief and conditionally providing for final relief in

the matter of the petition of District Board No. 2 for the establishment of price classifications and minimum prices for the coals of certain mines in District No. 2.

An original petition, pursuant to section 4 II (d) of the Bituminous Coal Act

of 1937, having been duly filed with this Division by the above-named party, requesting the establishment, both temporary and permanent, of price classifications and minimum prices for the coals of certain mines in District No. 2; and

It appearing that a reasonable showing of necessity has been made for the granting of temporary relief in the manner hereinafter set forth; and

No petitions of intervention having been filed with the Division in the above-entitled matter; and

The following action being deemed necessary in order to effectuate the purposes of the Act;

It is ordered, That pending final disposition of the above-entitled matter, temporary relief is granted as follows: Commencing forthwith § 322.7 (*Alphabetical list of code members*) is amended by adding thereto Supplement R-I, § 322.9 (*Special prices—(c) Railroad fuel*) is amended by adding thereto Supplement R-II, and § 322.23 (*General prices*) is amended by adding thereto Supplement T, which supplements are hereinafter set forth and hereby made a part hereof.

It is further ordered, That pleadings in opposition to the original petition in the above-entitled matter and applications to stay, terminate or modify the temporary relief herein granted may be filed with the Division within forty-five (45) days from the date of this order, pursuant to the Rules and Regulations Governing Practice and Procedure before the Bituminous Coal Division in Proceedings Instituted Pursuant to section 4 II (d) of the Bituminous Coal Act of 1937.

It is further ordered, That the relief herein granted shall become final sixty (60) days from the date of this order, unless it shall otherwise be ordered.

Dated: August 14, 1942.

[SEAL]

E. BOYKIN HARTLEY,  
Acting Director.

## TEMPORARY AND CONDITIONALLY FINAL EFFECTIVE MINIMUM PRICES FOR DISTRICT NO. 2

NOTE: The material contained in these supplements is to be read in the light of the classifications, prices, instructions, exceptions, and other provisions contained in Part 322, Minimum Price Schedule for District No. 2 and supplements thereto.

## FOR ALL SHIPMENTS EXCEPT TRUCK

## § 322.7 Alphabetical list of code members—Supplement R-1

[Alphabetical listing of code members having railway loading facilities, showing price classification by size group numbers]

Mine index No.	Code member	Mine name	Seam	Sub- dis- trict No.	Shipping point	Railroad	Freight origin group No.	Size group Nos.																
								1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	
5324	Barnett, Walter A. (Mining and Construction Company).	Barney #3 (S)	Pittsburgh...	9	Trees Mills, Pa.	PRR	74	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
2000	Barnett, Walter A. (Mining and Construction Company).	Warner (S)	Pittsburgh...	9	Hall, Pa.	Union	76	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
516	Brown Brothers	Brown Bros. (d)	Redstone	9	Somers, Pa.	P&LE	73	G	G	G	G	G	G	G	G	G	G	G	G	G	G	G	G	G
2468	Harman, William S. (Harman Coal Co.)	Totten #1	Sewickley	3	Darent, Pa.	PRR	114	J	J	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H
2469	Harman, William S. (Harman Coal Co.)	Totten #2	Pittsburgh...	3	Darent, Pa.	PRR	114	(†)	(†)	E	E	C	C	C	C	C	C	C	C	C	C	C	C	C
2460	Ruth Fuel Company (John H. Ruth)	Jackson (S)	Pittsburgh	3	Dickerson Run, Pa.	P&LE	36	(†)	(†)	(†)	(†)	(†)	(†)	(†)	(†)	(†)	(†)	(†)	(†)	(†)	(†)	(†)	(†)	(†)
2151	S. & U. Coal Co. (Stanley Skeels)	West Newton (d)	Pittsburgh	9	Somers, Pa.	P&LE	73	E	E	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
2049	Snyder, George B. (George B. Snyder Coal Co.)	Snyder #2	Pittsburgh	6	Fort Palmer, Pa.	Lig. Val.	10	G	G	G	G	H	H	H	H	G	G	G	G	G	G	G	G	G
1727	Stanislav, John	Ferry (d)	Pittsburgh	6	Fort Palmer, Pa.	Lig. Val.	10	G	G	G	G	H	H	H	H	E	E	E	E	E	E	E	E	E
2453	Thornbottom Coal & Coke Com- pany (Thomas P. Ruane).	Thornbottom (S)	Pittsburgh...	3	Bitner Colliery, Pa.	PRR	31	(†)	(†)	(†)	(†)	(†)	(†)	(†)	(†)	(†)	(†)	(†)	(†)	(†)	(†)	(†)	(†)	(†)
2	Tomalco, Edward	Adamsburg (W) (d)	Redstone	9	Edna, Pa.	PRR & B&O	115	(†)	(†)	(†)	(†)	(†)	(†)	(†)	(†)	(†)	(†)	(†)	(†)	(†)	(†)	(†)	(†)	(†)
2390	Zurick, Joseph	Zurick (d)	Pittsburgh...	6	Fort Palmer, Pa.	Lig. Val.	10	G	G	G	G	F	F	F	F	H	H	H	H	H	H	H	H	H

† Indicates no classification or prices effective for this size group.

\* Indicates classifications and prices previously established for this size group.

§ 322.9 *Special prices*—(c) *Railroad fuel*—Supplement R-II. In § 322.9 (c) in Minimum Price Schedule, add the mine index numbers in groups shown. Group No. 1: 2151; Group No. 2: 516; Group No. 6: 2453, 2460, 2469; Group No. 8: 2468; Group No. 14: 1727, 2049, 2300.

## FOR TRUCK SHIPMENTS

§ 322.23 *General prices*—Supplement T

[Prices in cents per net ton for shipment into all market areas]

Code member index	Mine index No.	Mine	Seam	Base sizes													
				Lump over 4"	Lump 4"	Lump 3"	Lump 2"	Egg 2" x 4"	Stove 1" x 4"	Pea 3/4" x 1 1/4"	Run of mine	2" N/S	1 1/4" slack	3/4" slack			
				1	2	3	4	5	6	7	8	9	10	11			
BEAVER COUNTY																	
Seymour Coal Co.....	2467	Seymour #2.....	M. Kitt.....	300	290	280	275	250	245	225	185	175	165				
BUTLER COUNTY																	
Pennsylvania Refining Co.....	2471	Chas. P. Sherwin.....	U. Free.....	325	305	285	265	200	245	245	230	190	180	170			
FAYETTE COUNTY																	
Harman, William S. (Harman Coal Co.).	2468	Totten #1.....	Sewickley.....	265	255	245	235	215	205	205	205	190	185	170			
Harman, William S. (Harman Coal Co.).	2469	Totten #2.....	Pittsburgh.....	300	290	280	260	240	230	225	230	210	200	175			
Minor, Walter.....	2455	Friendship.....	Pittsburgh.....	290	280	270	250	230	220	215	220	205	200	175			
Ruth Fuel Company (John H. Ruth).	2460	Jackson (Strip).....	Pittsburgh.....	280	270	260	245	225	210	210	210	200	195	175			
Thornbottom Coal & Coke Company (Thomas P. Ruane).	2453	Thornbottom (S).....	Pittsburgh.....	280	270	260	245	225	210	210	210	200	195	175			
WASHINGTON COUNTY																	
Malinchak, John.....	2459	Midget.....	Redstone.....	275	265	255	230	220	205	195	205	180	170	160			
WESTMORELAND COUNTY																	
Tomajko, Edward.....	2	Adamsburg (W) (d)...	Redstone.....	(†)	(†)	(†)	235	230	220	200	205	185	175	(†)			
Shultz & Kantoric (H. Merle Shultz).	2480	S. & K. #2.....	Redstone.....	265	255	245	230	225	215	195	200	180	170	160			

†Indicates no classifications and prices effective for these size groups.

[F. R. Doc. 42-8297; Filed, August 25, 1942; 11:26 a. m.]

PART 322—MINIMUM PRICE SCHEDULE,  
DISTRICT NO. 2.

[Docket Nos. A-1564 and A-1575]

## ORDER GRANTING RELIEF

Order of consolidation and order granting temporary relief and conditionally providing for final relief in the

matter of the petitions of District Board No. 2 for the establishment of price classifications and minimum prices for the coals of certain mines in District No. 2 and for a change in shipping point for Mine Index No. 2448.

Original petitions, pursuant to section 4 II (d) of the Bituminous Coal Act of

1937, having been duly filed with this Division by the above-named party, requesting the establishment, both temporary and permanent, of price classifications and minimum prices for the coals of certain mines in District No. 2 and for a change in shipping point for Mine Index No. 2448; and

It appearing that a reasonable showing of necessity has been made for the granting of temporary relief in the manner hereinafter set forth; and

No petitions of intervention having been filed with the Division in the above-entitled matter; and

The following action being deemed necessary in order to effectuate the purposes of the Act;

It is ordered, That the above-entitled matters are herein consolidated.

It is further ordered, That pending final disposition of the above-entitled matter, temporary relief is granted as follows: Commencing forthwith, § 322.7 (*Alphabetical list of code members*) is amended by adding thereto Supplement R-I, § 322.9 (*Special prices*—(c) *Railroad fuel*) is amended by adding thereto Supplement R-II, and § 322.23 (*General prices*) is amended by adding thereto Supplement T, which supplements are hereinafter set forth and hereby made a part hereof; and commencing forthwith, the shipping point appearing in the aforesaid Supplement R-I for Mine Index No. 2448 shall be effective in place of the shipping point heretofore established for this mine.

It is further ordered, That pleadings in opposition to the original petition in the above-entitled matter and applications to stay, terminate or modify the temporary relief herein granted may be filed with the Division within forty-five (45) days from the date of this order, pursuant to the Rules and Regulations Governing Practice and Procedure before the Bituminous Coal Division in Proceedings Instituted Pursuant to section 4 II (d) of the Bituminous Coal Act of 1937.

It is further ordered, That the relief herein granted shall become final sixty (60) days from the date of this order, unless it shall otherwise be ordered.

Dated: August 15, 1942.

[SEAL]

E. BOYKIN HARTLEY,  
Acting Director.

## TEMPORARY AND CONDITIONALLY FINAL EFFECTIVE MINIMUM PRICES FOR DISTRICT NO. 2

NOTE: The material contained in these supplements is to be read in the light of the classifications, prices, instructions, exceptions, and other provisions contained in Part 322, Minimum Price Schedule No. 1 for District No. 2 and supplements thereto.

## FOR ALL SHIPMENTS EXCEPT TRUCK

## § 322.7 Alphabetical list of code members—Supplement R-I

[Alphabetical listing of code members having railway loading facilities, showing price classification by size group numbers]

Mine index No.	Code member	Mine name	Seam	Sub-district No.	Shipping point	Railroad	Freight origin group No.	Size group Nos.								
								1	2	3	4	5	6	7	8	9
2476	Bowie Coal Co. (R. R. Bowie)	McFarland (Strip)	Brookville	1	Grove City, Pa.	B&E	29	G	G	G	G	G	F	G	G	G
926	Holman, James E.	Stone (Deep)	Kitt	1	Hooker, Pa.	W. Alleg.	21	F	F	E	E	E	E	F	F	F
591	Koken Coal Company	Dawson (Deep)	U. Free	8	Culmerville, Pa.	B&E	41	E	E	D	D	D	D	D	D	D
2478	Menohar, Ford	Menohar #2 (d)	Pittsburgh	6	Ft. Palmer, Pa.	Lig. Val.	10	G	G	D	D	D	D	D	D	D
2306	Stanislav, Steve & Joseph T. Turchack (Steve Stanislav)	St. Clair Second Hill (d)	Pittsburgh	6	Ft. Palmer, Pa.	Lig. Val.	10	G	G	G	G	H	H	G	G	G
2473	Straub, E. A.	Foster (Deep)	Brookville	1	Harrisville, Pa.	B&E	20	G	G	G	G	G	F	G	G	G
2475	Wynn Coal & Coke Co. (Martin W. Ruane)	Waltner Strip (s)	Pittsburgh	3	Wynn, Pa.	PRR	31	G	G	G	G	G	E	E	E	(t)
2448	Helen N. Mining Co. (Max Nobel)	Helen N. (S)	U. Freeport	3	Crystal Works, Pa.	B&O	80	E	E	G	G	G	O	D	D	D

† Indicates no classification or prices effective for these size groups.

‡ Denotes new shipping point. Shipping Point at Gaus, Pa., on the Baltimore & Ohio Railroad in Freight Origin Group No. 80 shall no longer be applicable.

§ 322.9 Special prices (c) Railroad fuel—Supplement R-II. In § 322.9 (c) in Minimum Price Schedule add the mine index numbers in groups shown: Group

No. 6: 2475; Group No. 7: 2448; Group No. 9: 591; Group No. 12: 936; Group No. 14: 2478, 2306; Group No. 15: 2476, 2473.

## TRUCK SHIPMENTS

## § 322.23 General prices—Supplement T

[Prices in cents per net ton for shipment into all market areas]

Code member index and name	Mine index No.	Mine	Seam	Base sizes														
				Lump over 4"	Lump 4"	Lump 3"	Lump 2"	Egg 2" x 4"	Stove 1" x 4"	Pea 3/4" x 1 1/4"	Run of mine	2" N/S	1 1/4" slack	3/4" slack				
				1	2	3	4	5	6	7	8	9	10	11				
ALLEGHENY COUNTY																		
Lucidi, G. (Clairton Building & Construction Co.)	2464	Lucidi.....	Pittsburgh..	300	290	280	255	230	230	220	240	200	190	180				
BUTLER COUNTY																		
Straub, E. A.....	2473	Foster (D).....	Brookville..	325	305	285	265	260	245	245	230	190	180	170				
FAYETTE COUNTY																		
Newill, Stanley J.	2477	Newill (S).....	Pittsburgh..	310	300	290	270	250	240	235	240	210	200	185				
Simpson, Barnes & McClean (B. F. Simpson).	2472	Big Three.....	Pittsburgh..	290	280	270	250	230	220	215	220	205	200	175				
Wynn Coal & Coke Co. (Martin W. Ruane).	2475	Weltner Strip (S)....	Pittsburgh..	290	280	270	250	230	220	215	220	205	200	175				
MERCER-VENANGO COUNTY																		
Bowie Coal Co. (R. R. Bowie)...	2476	McFarland (S).....	Brookville..	325	310	290	275	270	255	255	240	185	175	160				
WASHINGTON COUNTY																		
Shlanta, John M. (Shlanta Mine).	2403	Shlanta #2 Deep.....	Pittsburgh..	310	300	290	260	250	235	225	245	210	200	175				
WESTMORELAND COUNTY																		
Harris, J. Richard	2479	Harris.....	Pittsburgh..	280	270	260	245	230	220	215	235	195	185	175				
Menohar, Ford	2478	Menohar #2 (D).....	Pittsburgh..	270	260	250	240	230	225	220	215	190	180	170				

[F. R. Doc. 42-8298; Filed, August 25, 1942; 11:26 a. m.]

[Docket No. A-941]

**PART 331—MINIMUM PRICE SCHEDULE,  
DISTRICT NO. 11**

**ORDER GRANTING RELIEF**

Memorandum opinion and order modifying, and approving and adopting as modified, the proposed findings of fact and conclusions of law and recommendation of the examiner and granting relief in the matter of the petition of District Board 11 for the establishment of minimum prices for raw or washed coals which are crushed, pulverized, or reduced by any method down to the size dimensions prescribed for Size Groups 13-16, inclusive.

This proceeding was instituted upon a petition, as amended, filed with the Bituminous Coal Division on June 27, 1941, by District Board 11, pursuant to section 4 II (d) of the Bituminous Coal Act of 1937, requesting the establishment of minimum prices in District 11 for lump, double screened, mine run, modified mine run and mine run resultant coals, either raw or mechanically cleaned, that have been crushed, pulverized, or reduced by any method down to the size dimensions prescribed for

No. 169—2

Size Groups 13-16, inclusive, or for coals rescreened from such crushed sizes into nut and stoker coals (Size Groups 9, 10, 11 and 12) and resultant carbon (Size Group 15);

Petitions of intervention were filed by District Boards, 1, 4, 6, 7 and 10; Central State Collieries, Incorporated, et al.,<sup>1</sup> Chicago, Wilmington and Franklin Coal Company, et al.,<sup>2</sup> Southwestern Illinois Coal Corporation, Sahara Coal Company, code members in District 10; Ayrshire Patoka Collieries Corporation, Snow Hill Coal Corporation and Walter Bledsoe and Co., code members in District 11.

Pursuant to Orders of the Director and after due notice to all interested persons, a hearing in this matter was held on November 17 and 18, 1941, before Charles O. Fowler, a duly designated Examiner

<sup>1</sup> Little John Coal Company, Midland Electric Coal Corporation, Northern Illinois Coal Corporation, Osage Coal Company, Truax-Traer Coal Company, the United Electric Coal Companies, Wilmington Coal Mines, Inc., Alpha Coal Company.

<sup>2</sup> Old Ben Coal Corporation, Bell and Zoller Coal and Mining Company, Franklin County Coal Corporation, Peabody Coal Company, Wasson Coal Company (hereinafter referred to as the "Southern Illinois interveners").

of the Division at a hearing room thereof in Washington, D. C., at which all interested parties were afforded an opportunity to be present, adduce evidence, cross-examine witnesses and otherwise be heard. Appearances were entered by petitioner, District Boards 4, 6, 7, 8, and 10, Central State Collieries, Inc., et al., Southern Illinois interveners, Snow Hill Coal Corporation and Walter Bledsoe and Co., Sahara Coal Company, Southwestern Illinois Coal Corporation, and Bituminous Coal Consumers' Council.

Briefs were filed by the petitioner, Southern Illinois interveners, District Board 4 and Bituminous Coal Consumers' Council.

The Examiner on May 1, 1942, submitted his Report, Proposed Findings of Fact, Proposed Conclusions of Law and upon the basis thereof recommended that the relief in this matter be granted. Thereafter, opportunity was afforded to all parties to file exceptions thereto. On June 22, 1942, petitioner and District Board 4 filed Exceptions to the Examiner's Report.

1. *Nature of the proceeding.* This proceeding has been brought by District Board 11 for the purpose of establishing minimum prices for the "crushed coals" produced in District 11 by the secondary crushing of either washed or unwashed coarse sizes of coal down to the screening sizes.<sup>3</sup> In view of the increasing demand for the stoker and screening sizes of coal, which demand is proportionately greater than the demand for domestic sizes, it is necessary at many mines to crush some sizes of coal in order to keep the mines running. The schedules of effective minimum prices for District 11 do not contain any specific prices or provisions for such crushed coals, and, as a result, there has been considerable confusion among the producers in District 11 resulting from alleged ambiguities in the price schedules as to whether the selling of crushed coal at the minimum prices established for raw screenings was authorized.

Thus, the problem involved in this proceeding is to determine the relative market value of the crushed coals in District 11 in light of the various standards imposed by the Bituminous Coal Act of 1937 as amended. In view of the analytical qualities and uses of crushed coal as revealed by the record, this is essentially a problem of evaluating the relative market value of the screenings made from crushed coal as against natural raw

<sup>3</sup> As used herein, "crushed coal" refers to any lump or double screened coals, or mine run, modified mine run and mine resultants, either raw or mechanically screened, which are crushed, pulverized or reduced, by any method, down to the size dimensions prescribed by Size Groups 13, 14, 15, 16, or coal that is rescreened from such crushed sizes into nut and stoker coals (Size Groups 9-12) and resultant carbon (Size Group 15). However, the crushed coal must be the result of secondary crushing as opposed to "primary crushing"—the latter being that crushing of coal that takes place prior to the sizing, preparation and cleaning of the coal itself in the tippie.

screenings and washed screenings.<sup>4</sup> All evidence is to the effect that the screenings made from crushed coals have a greater value than natural raw screenings from the same mine. However, the issue that must be determined is the extent of the increased value of the crushed coal screenings.

2. *The Examiner's report.* Upon the basis of the facts presented to him, the Examiner proposed certain minimum prices for the various ways in which crushed coal may be sold in the form of unmixed crushings, or when mixed with raw or mechanically cleaned natural screenings, and embodied his proposed prices in Supplement R attached to his Report.

Using evidence as to analytical qualities, size consist and marketability, the Examiner recommended, in the case of screening sizes made from crushed coals, either raw or mechanically cleaned, which are loaded directly into railroad cars and are not mixed with other screenings, a minimum price 15 cents per ton over the prices for Size Group 14 coals for standard mines and 30 cents per ton for substandard mines,<sup>5</sup> finding that such crushed coal should not be priced the same as washed screenings because of uncontroverted testimony as to the superior size consist and marketability of washed screenings.

As to crushed coal made from raw or mechanically cleaned coals from standard mines, which is mixed with the run of mine coal or mixed with the total concurrent production of raw screenings, the Examiner found evidence that the improvement in quality of the raw screenings due to the mixing in of some crushed coal was so small as to fall within the tolerances of quality and preparation found to exist at any good mine from day to day and from car to car, and accordingly, recommended that the prices should be those presently applicable for Size Groups 13-14-15-16, depending upon the size of the crushed coal screenings. The same recommendation was made as to crushed coal made from raw coal from substandard mines which is mixed with the total concurrent production of raw screenings. However, as to crushed coal made from mechanically cleaned coal from substandard mines

which is returned to the flow of coal to the raw classification screenings or mixed with the total concurrent production of raw screenings, the Examiner recommended a minimum price 10 cents per ton higher than the prices for Size Groups 13-14-15-16 as the case might be, finding that at certain substandard mines, because of the construction of the tipples, it would be possible to divert coal from the wash boxes and produce raw screenings to which crushed mechanically cleaned coal could be added in such substantial amounts as to materially increase the value of the resulting mixture.

In the case of crushed coal made from mechanically cleaned coal from both standard and substandard mines which is mixed with the total concurrent production of mechanically cleaned screenings of the size dimensions prescribed for Size Groups 23-24-25, the Examiner recommended that the minimum prices should be those for Size Groups 23-24-25, as the case might be, since the mixture of the crushed coal with the washed screenings reduces the quality of the coal so little that it falls within the same reasonable tolerance of variation that would exist at the mine in the washed screenings without any mixture of crushed coal.

As to crushed coal made from raw or mechanically cleaned coal, which is rescreened in the size dimensions prescribed for nut and stoker coals (Size Groups 9-10-11-12), the Examiner proposed to add 10 cents per ton to the prices for Size Groups 9-10-11-12, for standard mines and 15 cents per ton for substandard mines. Lastly, as to the resulting carbon (Size Group 15) made from rescreening crushed coal, the Examiner recommended a 10-cent per ton increase in prices over the prices for Size Group 15 for the standard mines, and such amounts for the substandard mines as would place them on a parity with the crushed rescreened carbon from the standard mines.

3. *Exceptions to the Examiner's report* (a) District Board 11 stated that in general the Report of the Examiner fairly found the facts and reached a conclusion that was just and equitable but took exception to the following statement in Supplement R attached to the Report:

All orders, acknowledgments, and invoices shall contain complete description of all sizes before being crushed, pulverized or otherwise reduced and description of size or sizes resulting from such reduction.

District Board 11 contends that such a proposed instruction is both unnecessary and impractical; unnecessary because § 318.6 (a) and § 318.12 (a) 2 in the Marketing Rules and Regulations make ample provision for any such requirement; and impractical because it is impossible for an order or contract to contain a complete description of all sizes before being crushed, for no one knows at the time of accepting an order or entering into a contract, whether the crushed coal will be made from lump, egg, nut or mine run, or a combination of two or more such sizes. At most, District Board 11 suggests, the instruction should read as follows:

Invoices for coals of the sizes and preparations described in Items 1, 4 and 6 of this supplement shall describe the coal by reference to the Item Number of this supplement.

(b) District Board 4's exceptions are, in summary, as follows:

(1) The relief granted should be limited to sales upon spot orders and should not be applicable to sales upon contracts, for the reason that the crushing of coal is an emergency measure and a producer should not be allowed to deliberately contract in advance to produce such crushed coal.

(2) The proviso in Items Nos. 2, 3, and 4 of Supplement R to the effect that the allotment of crushed coal in a mixture should not exceed 50 percent of the aggregate, should also apply in Item 5.

(3) The minimum prices recommended for resulting carbon produced by rescreening crushed coal should be 10 cents per ton higher than those recommended by the Examiner. Such increase, it is said, is justified by the B. t. u. content of the resulting carbon. Furthermore the argument that the excess of fines in the crushed carbon sizes lowers their value is said to be an unsound one for the reason that the carbon sizes are mainly used in pulverized installations where the excess of fines means less grinding costs and hence is advantageous.

4. *Discussion and conclusions.* (a) District Board 11's objection to having all orders, acknowledgments, and invoices contain a complete description of all sizes before being crushed would seem well taken. This recommendation of the Examiner will not, therefore, be followed. The deletion of that requirement is not intended, of course, to excuse compliance with the Marketing Rules and Regulations and Orders of the Division. Thus, invoices should describe the method of preparation of the crushed coal involved by reference to the appropriate item number in Supplement R attached hereto, and should also set forth the exact size shipped.

(b) (1) District Board 4's desire to limit the relief recommended by the Examiner solely to sales of crushed coal upon spot orders appears to be premised on its belief that the crushing of coal is a privilege rather than a right and is to be engaged in only as an emergency measure. I cannot agree with such a belief for it would tend unduly to restrict the operation of District 11 mines. Although it is true that the crushing of coal is often an emergency measure, it is at other times, by reason of market conditions, a necessary operation that must be engaged in if a mine is to keep running and producing coal on a relatively stable basis. Furthermore, as to District Board 4's fears that competition will be adversely affected "if contracts may be deliberately made to sell such crushed coal, which admittedly is of a superior quality," it is to be pointed out that the prices recommended by the Examiner are designed to fairly evaluate the superior qualities of crushed coal in any market in which it may be sold, whether such sales are made on the basis of spot orders or by contract.

(2) Items 2, 3, and 4 in Supplement R attached to the Examiner's Report con-

<sup>4</sup>In the Schedule of Effective Minimum Prices for District No. 11, raw screenings (Size Group 14) and washed screenings (Size Group 24) are each a base size used in the coordination of the prices for the various size groups. For standard Fifth Vein mines there is a differential of 25 cents per ton between Size Groups 14 and Size Group 24 coals.

<sup>5</sup>The mines in Price Groups 1, 2, 3, 4, 7, 18, and 19 ("substandard" mines), produce raw screenings which due to impurities are priced 15 cents per ton less than the raw screenings from mines in the same seam in Price Groups 5, 6, 8, 9, 10, 11, 12, 13, 14, 16, 17, and 20 ("standard" mines). However, in the domestic sizes, the coals of the substandard and standard mines, with few exceptions, are similar in quality, and, as a result, crushed coal from substandard and standard mines, being produced from the crushing of the domestic sizes, is similar in quality. Hence, in order to place the price of crushed coal from substandard mines on a parity with the price of crushed coal from standard mines, it is necessary to add 15 cents more in the case of substandard mines.

tain the proviso that in no case shall the allotment of crushed coal in the mixture described in the item exceed 50 percent of the aggregate. Since crushed coal is admittedly superior to natural raw screenings, the purpose of such a proviso is to prevent a mixture for which the raw screenings price or the raw screenings price plus 10 cents would be improper. However, in Item 5, relating to crushed coal made from mechanically cleaned coal from standard and substandard mines, which is mixed with the total concurrent production of mechanically cleaned screenings of the size dimensions prescribed for Size Groups 23-24-25, it is recommended that the washed screenings prices of Size Groups 23-24-25, as the case may be, be applied. Since the washed screenings price is the highest price that could be reasonably applied to sales of crushed coal, it follows that there is no reason to impose a percentage restriction on the mixture described in Item 5.

(3) With respect to the prices for carbon (Size Group 15) resulting from the rescreening of crushed coals, I am of the opinion that the prices recommended by the Examiner should be increased 5 cents per ton. While the record contains no specific analyses of crushed coal rescreened into resultant carbon or of the actual raw carbon screenings, it is possible to compare the qualities of crushed coal and raw screenings in the  $1\frac{1}{2}$ " x 0 and  $1\frac{1}{4}$ " x 0 sizes. Such a comparison for a number of representative standard mines in the Fifth Vein shows that on an average the crushed coal has about 1 percent less moisture, 2.45 percent less ash, and approximately 480 more B. t. u.'s per pound than the natural raw screenings. About the same differences are shown for other standard mines in the Third, Fourth, and Seventh Veins, although for mines like the Talleydale Mine of the Snow Hill Corporation and the Glendora 28 Mine of the Glendora Coal Company the differences are much greater. As the quality of the crushed coal is generally the same regardless of the size and as the value of the raw carbon size is certainly no greater than that of the  $1\frac{1}{2}$ " x 0 and the  $1\frac{1}{4}$ " x 0 raw screenings, the difference thus set forth must at least exist as between the carbon sizes of crushed coal and raw screenings. Such a difference, in the case of crushed coal in Item 1 loaded directly into railroad cars, gave rise to the Examiner's recommendation that the price of crushed coal should be increased 15 cents per ton over the Size Group 14 prices for standard mines. The record indicates that District Board 11 was aware of the fact that crushed rescreened carbon is analytically better than the carbon produced in the run of mine coals but contended that the crushed product would have a greater percentage of fines under 10 mesh to offset its superior analytical qualities. However, since the crushed carbon sizes are principally used in pul-

verized installations where the excess of fines is not disadvantageous, I am of the opinion that a like increase in price should be made here as was made in Item 1. Accordingly I find that the minimum price for crushed rescreened carbon from the standard mines should be 15 cents per ton higher than raw carbon prices and for the substandard mines should be increased by such amounts as will place them on a parity with the crushed rescreened carbon from the standard mines.

On the basis of the entire record, I find and conclude that the findings of fact and conclusions of law made by the Examiner are supported by the evidence and should be adopted, except in so far as they concern the requirements for filing information as to the sizes crushed and as to the price for crushed coal rescreened into resultant carbon. As to these two matters, I find that the exceptions taken by District Board 4 and 11 have merit to the extent noted above.

Now, therefore, it is ordered, That the Proposed Findings of Fact and Proposed Conclusions of Law of the Examiner, as modified herein, be, and they hereby are, approved and adopted as the Findings of Fact and Conclusions of Law of the undersigned.

It is further ordered, That effective fifteen (15) days from the date hereof, the Price Instructions and Exceptions in § 331.1 (Price instructions and exceptions) in the Schedule of Effective Mini-

mum Prices for District 11 for All Shipments Except Truck be, and they hereby are, amended in accordance with Supplement R hereto attached and made a part hereof.

It is further ordered, That the prayers for relief contained in the petition filed herein are granted to the extent set forth above and in all other respects denied.

Dated: August 15, 1942.

[SEAL]

E. BOYKIN HARTLEY,  
Acting Director.

NOTE: The material contained in this supplement is to be read in the light of the classifications, prices, instructions, exceptions and other provisions contained in part 331, Minimum Price Schedule for District No. 11 and supplements thereto.

#### § 331.1 Price instructions and exceptions—Supplement R.

All invoices shall contain description of size or sizes resulting from such reduction, and shall describe the method of preparation of such crushed coal by reference to the appropriate Item Number of this Price Instruction and Exception.

Whenever lump or double-screened coals, or mine run, modified mine run, and mine run resultants, either raw or mechanically cleaned, are secondarily crushed, pulverized, or reduced, by any method, down to the size, dimensions prescribed for Size Groups 13-14-15-16, (hereinafter referred to as "crushed coal") the minimum prices for the various preparations of such crushed coals shall be as follows:

Item No.	Type of preparation	Price group No.	Minimum prices
1	Crushed coal, made from raw or mechanically cleaned coal, loaded direct into railroad cars without being subjected to any subsequent screening or preparation process, or without being mixed with screenings made from the screening of mine run coal.	5, 6, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 20.	15 cents per ton over prices for Size Group No. 14, except that for Size Group 13 coals the amount shall be 25 cents, instead of 15 cents, over prices for Size Group 14.
2	Crushed coal, made from raw or mechanically cleaned coal, which is returned to the flow of coal to the raw coal classification screens, or is mixed with the total concurrent production of raw screenings of the size dimensions prescribed for Size Groups 13, 14, 15, 16: <i>Provided, however, That in no case shall the allotment of crushed coal in a mixture exceed 50% of the aggregate.</i>	1b, 2, 3, 4, 7, 18, 19.....	30 cents per ton over prices for Size Group No. 14, except that for Size Group 13 coals the amount shall be 40 cents, instead of 30 cents, over prices for Size Group 14.
3	Crushed coal, made from raw coal, which is returned to the flow of coal to the raw coal classification screens, or is mixed with the total concurrent production of raw screenings of the size dimensions prescribed for Size Groups 13, 14, 15, 16: <i>Provided, however, That in no case shall the allotment of crushed coal in a mixture exceed 50% of the aggregate.</i>	5, 6, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 20.	Prices for Size Groups 13, 14, 15, 16, as the case may be.
4	Crushed coal, made from mechanically cleaned coal, which is returned to the flow of coal to the raw coal classification screens, or is mixed with the total concurrent production of raw screenings of the size dimensions prescribed for Size Groups 13, 14, 15, 16: <i>Provided, however, That in no case shall the allotment of crushed coal in a mixture exceed 50% of the aggregate.</i>	1b, 2, 3, 4, 7, 18, 19.....	Prices for Size Groups 13, 14, 15, 16, as the case may be.
5	Crushed coal, made from mechanically cleaned coal, which is returned to the flow of coal to the mechanically cleaned coal classification screens, or is mixed with the total concurrent production of mechanically cleaned screenings of the size dimensions prescribed for Size Groups 23, 24, 25.	5, 6, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 20. 1b, 2, 3, 4, 7, 18, 19.....	10 cents per ton higher than the prices for Size Groups 13, 14, 15, 16, as the case may be. Prices for Size Groups 23, 24, 25, as the case may be.

\* Secondary crushing, as herein used, refers to any crushing of coal other than "primary crushing," and primary crushing is defined as that crushing of coal that takes place prior to any sizing, preparation or cleaning of the coal itself in the tipple.

† Includes Chinook Mine of Ayrshire Patoka Collieries Corporation, Mine Index No. 121.

Item No.	Type of preparation	Price group No.	Minimum prices
6	Crushed coal, made from raw or mechanically cleaned coal, which is rescreened into the size dimensions prescribed for nut and stoker coals (Size Groups 9, 10, 11, 12) and resultant carbon (Size Group 15).	1, 2, 3, 4, 13, 14.....	<i>Nut and stoker coals</i> 15 cents per ton over the prices for Size Groups 9, 10, 11, 12, as the case may be.
		5, 6, 7, 8, 9, 10, 11, 12, 15, 16, 17, 18, 19, 20.	10 cents per ton over the prices for Size Groups 9, 10, 11, 12, as the case may be.
			<i>Carbon</i>
		1 <sup>b</sup> , 2, 3, 4, 7, 18, 19.....	30 cents per ton over the prices for Size Group 15.
		14.....	25 cents per ton over the prices for Size Group 15.
		13, 15, 16, 17.....	20 cents per ton over the prices for Size Group 15.
		5, 6, 8, 9, 10, 11, 12, 20.....	15 cents per ton over the prices for Size Group 15.

<sup>b</sup> See note on page 6763.

[F. R. Doc. 42-8299; Filed, August 25, 1942; 11:27 a. m.]

[Docket No. A-792]

**PART 328—MINIMUM PRICE SCHEDULE,  
DISTRICT NO. 8**

**WEST VIRGINIA COAL AND TRANSPORTATION  
CO.—NORTHERN STATES POWER CO.**

Memorandum opinion and order concerning exceptions, approving and adopting the proposed findings of fact, proposed conclusions of law, and recommendations of the examiner as modified, and granting relief in the matter of the petition of West Virginia Coal and Transportation Company, a code member of District No. 8 for preliminary, or temporary, and permanent order for establishment of free alongside prices for coal produced in District No. 8 by code members and shipped in river barges to the Northern States Power Company, St. Paul and Minneapolis, Minnesota.

This proceeding was instituted upon petition filed with the Bituminous Coal Division by West Virginia Coal and Transportation Company (the "Petitioner"), a code member in District No. 8 in behalf of the Northern States Power Company (the "Power Company"), pursuant to section 4 II (d) of the Bituminous Coal Act of 1937, seeking an Order permitting certain District No. 8 coals in Size Group Nos. 20, 21 and 22 to be sold at f. o. b. mine prices for free alongside delivery to the Power Company for consumption at its plants located at Minneapolis and St. Paul, Minnesota.

Petitions of intervention were filed by District Boards 2, 7, 10 and 11, and a notice of appearance filed by the Consumers' Counsel.

Pursuant to appropriate Orders therefor, hearings were duly held before Floyd McGown, a duly designated Examiner of the Division, at Washington, D. C. All interested persons were afforded an opportunity to be present, adduce evidence, cross-examine witnesses, and otherwise be heard.

Because of the location of its plants away from river's edge, the Power Company has been entitled to only "ex-river" prices for coals from District 8. Petitioner sought relief under the "future developments" clause of the "Special Cases" provisions, § 328.13 (iii) (a) of

the Special River Price Instruction and Exceptions in the District 8 schedule.

Following the first hearing, at which the report of the Examiner was waived, Director Gray under date of October 8, 1941, found as facts that the improvement of the channel of the Mississippi River constituted a "future development" within the contemplation of the above "Special Cases" provision, but that there was a failure to prove that the Power Company would have purchased District 8 coals moving by river at such prices and under such conditions that they would not be competitive with coal of comparable quality moving by ex-lake dock, or would have regularly purchased them at a saving over available prices of comparable coal moving ex-lake dock. The Director considered as inconclusive the testimony regarding the river transportation charges which are a large element in the delivered price computations, and was dissatisfied with the testimony regarding the opinion of an official of the Power Company upon certain ultimate facts, which he did not consider a substitute for factual testimony upon which the Director might base his own conclusion. For these reasons he denied relief.

Following the granting of Petitioner's request therefor, and the issuance of an appropriate Order, the hearing was reopened and on February 24, further testimony was received for the purpose of establishing (1) the transportation charges for shipping to the Power Company coals produced in District 8, and (2) the prospect that these coals would be purchased from Petitioner by the Power Company. On May 14, 1942, the Examiner filed his report, in which he proposed a finding that \$3.45 was a reasonable charge for river transportation, and that the use of this figure with other available data on handling costs resulted in an apparent saving of at least .08 cents per million B. t. u. in comparison with the ex-lake dock coals of District 7 used by the Power Company, and that the coals "are and would be competitive." He recommended a finding that while there was clearly no assurance that the Power Company would buy District 8

coals, their purchase depending upon acceptability after tests, a case had been proven requiring relief under the Special Cases provision.

The intervenors, District Boards 7 and 11, have filed exceptions to the Examiner's report, for the proper disposition of which it is necessary briefly to consider the origin and purpose of the controversial "Special Cases" provisions. As shown by the findings in General Docket No. 15, elaborate studies of distribution showed that delivered prices of coals shipped via river often reflected the saving of that cheaper form of transportation. In some places, particularly river destinations and plants, purchases for river delivery were at prices lower than by all rail or other transportation, and river coal dominated the market, so that an inference was drawn that river deliveries were not competitive with other deliveries. In other places, particularly inland destinations, although both river and all-rail coal moved in, the great predominance of coal shipped by rail or ex-lake dock had been so reduced in price as actively to compete with that shipped by river; moreover, in some instances not all the river saving had been passed along to the purchaser. In the former case the same level of mine prices was provided for river or free alongside delivery as for rail delivery, thus preserving the river coal's dominance without depriving the rail coals of established outlets. In the latter cases, in order to preserve existing fair competitive opportunities as required by the Act, prices for river and other delivery were equalized by the rules as they had been before by economic forces, with resulting price coordination for all coals. There immediately appeared instances where individual consumers, although located inland, because of location, trade connections or other factors had customarily enjoyed savings not available to others. In such instances as were proved, the consumer was permitted to purchase at prices for free alongside delivery by river so that he could continue to benefit and so that the producers who had enjoyed his patronage apparently free from other than river competition might continue to enjoy it. For those in the same position who had not legally established their rights, machinery was provided in the "Special Cases" provision whereby they might make the same showing and thus preserve existing relationships. And because the Act was not intended to freeze all commerce in coal in its present mold, but within the standards thereof to allow normal development, and to include the benefits from the river improvements constantly being made at public expense, the second paragraph § 328.13 (iii) (a) of the "Special Cases" provision was inserted in order to provide at all times for application to any pertinent future development and to any consumer or retail dealer as nearly as possible the same standards for consideration of river coals as were applied in General Docket No. 15.<sup>1</sup>

<sup>1</sup> These provisions are set out in the Examiner's report and in the District 8 price schedule, and are not here reported.

Considering the requirements of the "Special Cases" provisions as applied to future developments, in the light of their origin and purpose, it appears that the following three general questions are presented:

(1) Is the consumer or retail dealer in question one which in the absence of established minimum f. o. b. mine prices and by virtue of some future development, (a) would have customarily purchased coal moving by river at such prices and under such conditions that the coal moving by river would not be competitive with coal of comparable<sup>2</sup> quality moving by rail, truck or ex-lake dock, or (b) would have regularly purchased coal moving by river at a savings over available prices of comparable coal moving by rail, truck or ex-lake dock?

(2) Are the coals for which relief is sought such as would move via river to the consumer or retail dealer in question?

(3) Assuming (1) and (2) are shown, shall use of minimum f. o. b. mine prices for free alongside delivery be subject to any conditions necessary to accomplish the objectives of the Act and maintain the prescribed minimum prices?

The "future development" here is proved beyond question and can be dismissed without discussion. Both the Director based on the earlier hearing and the Examiner later found that the improvement in the Mississippi River making possible the movement of barges northward from the Ohio River constitutes a "future development," and this was not challenged.

The Power Company is the type of customer which because of great bargaining power generally receives the savings from river transportation regardless of the treatment of other consumers. It finally established its right to use river prices for shipment from District 10 in 1940, purchases heavily from Illinois producers in barge lots, and has gone so far as to enlarge its river coal handling facilities in St. Paul. Although these factors in themselves might be sufficient to establish this customer's status under the "Special Cases" provision, the Examiner has further determined from study of the delivered values of the coals from Districts 7, 8 and 10 which are actually involved, that at river prices petitioner's coals will deliver to the Power Company for at least .08 cents per million B. t. u. less than comparable District 7 coals. This relationship he characterizes as "competitive," although he considers upon the whole record that it constitutes a saving which would have made this a prospective coal, to a customer eligible to purchase it at prices for free alongside delivery.

Petitioner's witness, a resident of St. Paul, testified that petitioner was organized for the purpose of mining coal and distributing it by river to the Twin Cities. Petitioner began operating in the

spring of 1940 and by fall had sold 18,000 tons of 2" and 1½" screenings in the Twin Cities market. Petitioner leases barges and tow boats with their crews upon a long term basis and operates them to transport coal both from its own mines and from the mines of other producers in District 8. Petitioner's total cost of operation, including chartering of the barges and tugs and insurance, is \$5.10 per ton round trip. In addition to transporting coal, petitioner has a contract to haul 15,000 tons of scrap iron from Minnesota to the Pittsburgh area at \$2.25. There was evidence that notwithstanding certain competitive disadvantages, petitioner would be able to make return hauls of additional scrap tonnage. There also appears to be a demand for river transportation of other bulk commodities from Minnesota. On the basis of the return haul at \$2.25 per ton plus the proposed transportation charge of \$3.25 per ton for coal to Minneapolis, petitioner asserts that it would make 40 cents profit per round trip. Petitioner's witness testified that even if the coal were transported for \$3.00 per ton the coal could be transported at a profit.<sup>3</sup> Petitioner's witness testified that the proposed transportation charge of \$3.25 per ton from all points on the Kanawha River to the Twin Cities is a fair and reasonable one and, with a return load, is compensatory. He stated that with a full tow and with a return load petitioner could contract at such a price with numerous private carriers to perform the same service.

In this instance transportation by private or contract carrier appears to be more economical than similar transportation by common carrier. I know of no reason why the more economical method of transportation may not be used. The proposed rate of \$3.25 appears to be a reasonable one and should be employed in computing the free alongside price. Basing computations on this price rather than on the higher common carrier rate used by the Examiner results in a delivered price of \$5.08 per ton. On the basis of the average of 12,250 B. t. u. and handling charges of 28 cents per ton, both of which figures were employed by the Examiner, I find that petitioner's coal would deliver at the Power Company's plants for 20.73 cents per million B. t. u. or a theoretical saving of 0.9 cent per million B. t. u. over District 7 coals moving ex-lake dock. Under such circumstances the delivered price of \$5.08 for these screenings cannot be considered "competitive" with the \$5.525 delivered ex-lake dock price or the \$6.80 all rail price for identical coals, within the meaning of the "Special Case" provisions of the Price Schedule. Moreover, although the Examiner considered the evidence with respect to the ex-river transportation charges to the larger St. Paul plant to be indefinite and vague, I find that due to recent construction of

its dock and to the fact that petitioner performs its own unloading, the actual charges are considerably less than those employed in these calculations and made applicable to the Minneapolis plant. Such reduction in costs would represent a further saving to the Power Company.

District 8 coals are such as would move via river to the Power Company.<sup>4</sup> In the first hearing, testimony showed that the Power Company made preliminary analyses and burning tests to determine the coals suitable for use in its plant, then computed the B. t. u. valuation of suitable coals and purchased the coals showing the lowest cost, other factors being the same. The Power Company had tested a sample of petitioner's coal and had found it satisfactory at a proper price; it had also found satisfactory District 8 coals off the Duluth docks. Witness believed that in 1940 nearly ⅓ of its coal was taken via river from southern Illinois, and had a verbal understanding with officials of the Power Company that at a price of \$5.08 (which I find proper) the Power Company would purchase his coal in competition with these Illinois coals which do not store as well. He did not sell coal to the Power Company in the past because shipping facilities were limited by river conditions.

At the second hearing it appeared that Illinois coal is less desirable than District 8 high volatile coal with respect to deterioration, freezing, and spontaneous combustion in storage. Consumption of coal has been increasing rapidly due to power demands of war industries; the St. Paul plant has been enlarged, and an 18-inch natural gas pipe line installed in order to insure constant fuel supply. A letter from the Power Company states that if sale at prices for free alongside delivery is allowed, use of various coals produced in District 8 will be considered, after test. The witness repeated the facts that the Power Company buys some District 8 coals shipped from Duluth, and that preliminary test of one car of petitioner's District 8 coal had shown it to be satisfactory.

In view of the above testimony, the widely varying characteristics of District 8 screenings and their reputation as steam coals, it appears too clear for doubt that in the absence of effective minimum prices the Power Company would have purchased some of them and probably those of petitioner.<sup>5</sup> The exceptions taken to the finding to that general effect should be overruled.

District Board 7 excepted to the Examiner's use of effective minimum prices as a factor in reaching the conclusion that petitioner's coals (and others of District 8) would deliver at a lower B. t. u. cost than District 7 coals. District Board 7 contends that it was error to

<sup>4</sup> Failure to produce as a witness the Power Company's Manager of Supplies and Testing was explained, although it must be conceded that direct testimony of such person is much more valuable than the large amounts of hearsay with which it is frequently replaced.

<sup>5</sup> District 8 coals have already been priced for free alongside delivery, with proper equalization among themselves according to mine location.

<sup>2</sup> "Comparable" as here used means, for example, suited to and susceptible of comparison for the purpose intended by the purchaser.

<sup>3</sup> There was evidence that in April 1942 in a commercial transaction petitioner charged \$3.30 per ton for a total of 5,000 tons of coal produced by another operator and shipped from Huntington, West Virginia, to Minnesota.

base any conclusion, in part, upon the minimum prices, since the "future development" clause of the special cases provisions substantially provides that determinations thereunder are to be made "in the absence of established minimum f. o. b. mine prices." This contention is unsound. The character of consumer to whom relief shall be granted is one "who, in the absence of established minimum f. o. b. mine prices and by virtue of some future development, would have customarily purchased," etc., and this is established. It so happens in this case that the evidence shows that the established prices were about the same as open competition prices for the Minneapolis-St. Paul area. But, in any case, the future development and availability of supply of river coal took place after the effective date of minimum prices, in which situation those are the only "available prices" to be considered. The exception is not valid.

With respect to the transportation costs used by the Examiner in making his computations, District Board 7 excepts to the alleged failure to include cost of an originating truck movement from petitioner's mines to the common tipple at the river. This cost is absorbed in the minimum f. o. b. mine price established for petitioner's coals at the common tipple, which price was used by the examiner. The exception should be denied.

Exception is taken to the finding of the Examiner that free alongside prices should extend to coals of all producers in District 8, and to the proposed conclusion resulting therefrom. The evidence substantiates this finding as to all coals in Size Groups Nos. 20, 21, and 22, which are covered by the petition. Notice of and Order for Hearing, and testimony. Since there is no testimony regarding other than these screenings sizes, relief should be limited to them. To this extent the exception should be granted.

District Board 7 excepts to the consideration of quality and price relationships in the absence of a showing of analytical qualities of the various coals, and to an alleged failure to consider other than B. t. u. values of the comparable coals. Sufficient analytical data was furnished in view of the fact that acceptability by only one customer was involved and it had approved petitioner's coal and was purchasing others of District 8. The savings upon the B. t. u. basis as I have calculated them are so great as to make allowance for any probable differences of efficiency in combustion.

Exception is taken to the Examiner's conclusion that the establishment of f. a. s. prices for District 8 producers will not give the latter a competitive advantage over District No. 10 producers, but will establish the coordination that existed prior to the granting of f. a. s. prices to the Power Company from District No. 10 sources. I do not adopt this finding because, in my opinion, it is not necessary to the result and is not clearly established by the facts. The facts do, however, tend to show that the river coal from these two districts will be competi-

tive at the Power Company if relief is granted, but not otherwise.

Exception is taken to the conclusion of the Examiner that District 8 coals moving by river would not be competitive with coal of comparable quality moving by rail, truck or ex-lake dock, and would have been purchased at a savings, when the Examiner had found these coals "competitive with District 7 coals ex-lake dock." Exceptants appear to conclude that such competition requires denial of relief.<sup>6</sup> I do not believe this is so. It is sufficient to establish one of the alternative conditions in order to justify the granting of relief. Although in General Docket No. 15 the conclusion of non-competition was sometimes drawn from the fact of large movements at a saving, I find that the conclusion here should be limited to a statement that the Power Company would have regularly purchased coal moving by river at a savings over comparable coals moving otherwise within the meaning of the "Special Cases" provision.

After a consideration of the record in this proceeding, I find that substantial evidence supports the Proposed Findings of Fact, and the Proposed Conclusions of Law of the Examiner except as herein noted and that the exceptions of District Boards 7 and 11 other than as herein noted, are not well taken and should be denied. I further find that the Proposed Findings of Fact and Proposed Conclusions of Law of the Examiner herein, except as otherwise noted, should be approved and adopted as the Findings of Fact and Conclusions of Law of the undersigned.

In reaching a conclusion contrary to that reached by Director Gray in his findings of October 8, 1941, I have not departed from any policy announced by him; the changed conclusion is founded entirely upon evidence introduced at the reopened hearing both by way of supplement to and explanation of the evidence earlier introduced. The figures before the Director where such as not to prompt the conclusion that District 8 coal shipped by river would be purchased at a savings over comparable quality coal moving by rail or ex-lake dock; but the figures made available at the reopened hearing show otherwise. In the earlier hearing petitioners failed to demonstrate a need for the establishment of f. a. s. prices for District 8 coals for sale to the Power Company; at the reopened hearing further evidence was introduced showing the Power Company's interest in petitioners' coal if it were authorized to be sold on an f. a. s. basis. This is not to say that there is an assurance that the Power Company will buy such coal.

<sup>6</sup>It is regretted that the Examiner failed to elaborate on or explain the apparent confusion arising from this conclusion that in the absence of minimum prices the Power Company would have purchased District 8 coals moving by river at such prices and under such conditions that such coal moving by river would not be competitive with coal of comparable quality moving otherwise when he found that District 8 river shipped coals and District 7 rail or ex-lake dock coals would be competitive at the Power Company's plant.

I do not believe that Director Gray in his October 8 findings meant to indicate that the establishment of f. a. s. prices is dependent upon a showing that there is a guaranteed market for coal. Like the Examiner, I believe that it is sufficient in satisfaction of the "would have customarily purchased river borne coals" requirement of the "Special Cases" provision if it can be demonstrated that a customer eligible to accept f. a. s. deliveries (within the meaning of the "Special Cases" provision) has expressed an interest in particular coal and the producer is so located as to be able to ship such coal by river.

It is, therefore, ordered, That the exceptions of District Board 7 and District Board 11 to the Report, Proposed Findings of Fact, Proposed Conclusions of Law, and Recommendations of the Examiner, be, and the same hereby are sustained to extent herein noted, and in all other respects denied.

It is further ordered, That the Proposed Findings of Fact and the Proposed Conclusions of Law, as herein modified, be and the same are hereby adopted as the Findings of Fact and Conclusions of Law of the undersigned.

It is further ordered, That effective fifteen (15) days from the date hereof the Schedule of Effective Minimum Prices for District No. 8, for All Shipments Except Truck, be and the same hereby is amended by adding to § 328.13 (a) (1) (iii) (b) (*Special prices—Prices for river (free alongside deliveries) and ex-river shipments—Special river price instructions and exceptions—Special cases*) the following:

The Northern States Power Company (for consumption at its Riverside Station Plant at Minneapolis, Minnesota, and its High Bridge Station Plant at St. Paul, Minnesota, limited to coals in Size Groups Nos. 20, 21, and 22.)

Dated August 25, 1942.

[SEAL]

DAN H. WHEELER,  
Acting Director.

[F. R. Doc. 42-8342; Filed, August 26, 1942;  
11:30 a. m.]

[Docket No. A-1590]

#### PART 343—MINIMUM PRICE SCHEDULE, DISTRICT NO. 23

##### HUSKY MINE

Order granting temporary relief and conditionally providing for final relief in the matter of the petition of District Board No. 23 for Change in the rail shipping point for the Husky Mine (Mine Index No. 109) in District No. 23.

An original petition, pursuant to section 4 II (d) of the Bituminous Coal Act of 1937, having been duly filed with this Division by the above-named party, requesting a change in the rail shipping point for the Husky Coal Mining Company's Husky Mine (Mine Index No. 109) located in Subdistrict "G" of District No. 23; and

It appearing that the coals of the Husky Mine have heretofore originated for rail shipment upon the Northern Pacific Rail-

road at Kanasket, Washington, in Freight Origin Group 11, whereas petitioner now requests that the rail shipping point for the Husky Mine be changed to Ravensdale, Washington, and that the coals of such mine be permitted to originate for rail shipment upon the Northern Pacific Railroad at Ravensdale, Washington, in Freight Origin Group 11; and

It appearing that a reasonable showing of necessity has been made for the granting of temporary relief in the manner hereinafter set forth; and

No petitions of intervention having been filed with the Division in the above-entitled matter; and

The following action being deemed necessary in order to effectuate the purposes of the Act;

It is ordered, That, pending final disposition of the above-entitled matter, temporary relief is granted as follows: Commencing forthwith, in § 343.4 (*Code member price index*) the rail shipping point of the Husky Coal Mining Company's Husky Mine (Mine Index No. 109) in Subdistrict "G" of District No. 23 is changed from Kanasket, Washington, on the Northern Pacific Railroad in Freight Origin Group 11 to Ravensdale, Washington, on the Northern Pacific Railroad, in Freight Origin Group 11.

It is further ordered, That pleadings in opposition to the original petition in the above-entitled matter and applications to stay, terminate or modify the temporary relief herein granted may be filed with the Division within forty-five (45) days from the date of this Order, pursuant to the Rules and Regulations Governing Practice and Procedure before the Bituminous Coal Division in Proceedings Instituted Pursuant to section 4 II (d) of the Bituminous Coal Act of 1937.

It is further ordered, That the relief herein granted shall become final sixty (60) days from the date of this order, unless it shall otherwise be ordered.

Dated: August 25, 1942.

[SEAL] DAN H. WHEELER,  
Acting Director.

[F. R. Doc. 42-8343; Filed, August 26, 1942;  
11:31 a. m.]

## TITLE 32—NATIONAL DEFENSE

### Chapter VI—Selective Service System

[Amendment No. 75, 2d ed.]

#### PART 622—CLASSIFICATION

##### CLASS IV—F: MORALLY UNFIT

By authority vested in me as Director of Selective Service under 54 Stat. 885; 50 U.S.C., Sup. 301-318, inclusive; E.O. 8545, 5 F.R. 3779, Selective Service Regulations, Second Edition, are hereby amended in the following respect:

1. Amend § 622.61<sup>1</sup> to read as follows:

§ 622.61 *Class IV-F: Morally unfit.* In Class IV-F shall be placed every regis-

<sup>1</sup> 6 F.R. 6610.

trant who is found to be morally unfit. Unless the disqualification is waived by the Director of Selective Service, or the Secretary of War, or the Secretary of the Navy, a registrant shall be found to be morally unfit who:

(a) Has been discharged from the Army, Navy, Marine Corps, or Coast Guard with a form of discharge certificate other than honorable.

(b) Has been convicted of any of the following heinous crimes: Treason, murder, rape, kidnapping, arson, sodomy, pandering, any crime involving sex perversion, or any crime involving illegal dealing in narcotics or other habit-forming drugs.

(c) Has been convicted on two or more occasions of any offense (other than a conviction for an offense committed in violation of the Selective Training and Service Act of 1940, as amended, or the regulations prescribed or orders issued pursuant thereto) for which he could have been punished by death or confinement for a term exceeding 1 year in a penitentiary or prison.

(d) Is a chronic offender with pronounced criminal tendencies.

(e) Is being retained in the custody of any court of criminal jurisdiction or other civil authority. In the event such court or other civil authority releases such registrant from custody, upon final adjudication or otherwise, such registrant may be reclassified. A registrant shall be considered to have been released from custody by an order terminating such custody if and when the registrant is inducted or suspending such custody for the period of military service of the registrant, if inducted, either with or without credit for such period.

If a registrant is otherwise qualified for service and would be placed in Class I-A, except for the fact that he is being retained in the custody of a court of criminal jurisdiction or other civil authority, the local board shall place him in Class I-A and shall request the court or other civil authority to grant an order terminating such custody in order that the registrant may be inducted. In all such cases the registrant shall not be classified in Class IV-F unless and until the local board's request for an order terminating civil custody of the registrant is refused.

When the court or other civil authority grants an order terminating civil custody of the registrant, the local board must be furnished with at least one certified copy of such order. At the time the registrant is ordered to report for induction, the local board shall mail the certified copy of the order to the induction station commander with a letter of explanation so that the commander will have full knowledge of the situation before the induction date.

(f) Is found, irrespective of the foregoing provisions, to be morally unfit for military service.

2. The foregoing amendment to the Selective Service Regulations shall be effective immediately upon the filing hereof with the Division of the Federal

Register. (54 Stat. 885; 50 U.S.C. 301-318, inclusive; E.O. 8545, 5 F.R. 3779)

LEWIS B. HERSHEY,  
Director.

AUGUST 25, 1942.

[F. R. Doc. 42-8354; Filed, August 26, 1942;  
11:45 a. m.]

[Order No. 52]

#### POWELLVILLE PROJECT

##### ESTABLISHMENT FOR CONSCIENTIOUS OBJECTORS

I, Lewis B. Hershey, Director of Selective Service, in accordance with the provisions of section 5 (g) of the Selective Training and Service Act of 1940 (54 Stat. 885) and pursuant to authorization and direction contained in Executive Order No. 8675 dated February 6, 1941, hereby designate the Powellville Project to be work of national importance, to be known as Civilian Public Service Camp No. 52. Said camp, located at Powellville, Wicomico County, Maryland, will be the base of operations for soil conservation work in the State of Maryland, and registrants under the Selective Training and Service Act of 1940, who have been classified by their local boards as conscientious objectors to both combatant and noncombatant military service and have been placed in Class IV-E, may be assigned to said camp in lieu of their induction for military service.

The work to be undertaken by the men assigned to Civilian Public Service Camp No. 52 will consist of the provision of labor for rehabilitation work on existing drainage systems thereby increasing the production of food crops; also for the maintenance of a fire fighting unit for the protection of a forest area, and shall be under the technical direction of the Soil Conservation Service of the Department of Agriculture insofar as concerns the planning and direction of the work program. The camp, insofar as camp management is concerned, will be under the direction of approved representatives of the National Service Board for Religious Objectors. Men shall be assigned to and retained in camp in accordance with the provisions of the Selective Training and Service Act of 1940 and regulations and orders promulgated thereunder. Administrative and directive control shall be under the Selective Service System through the Camp Operations Division of National Selective Service Headquarters.

LEWIS B. HERSHEY,  
Director.

AUGUST 25, 1942.

[F. R. Doc. 42-8353; Filed, August 26, 1942;  
11:46 a. m.]

[No. 112]

#### APPLICATION FOR IMMEDIATE CLASSIFICATION

##### ORDER PRESCRIBING FORM

By virtue of the Selective Training and Service Act of 1940 (54 Stat. 885), and

the authority vested in me by the rules and regulations prescribed by the President thereunder and more particularly the provisions of § 605.51 of the Selective Service Regulations, I hereby prescribe the following change in DSS forms:

Addition of a new form designated as DSS Form 191, entitled "Application for Immediate Classification," effective immediately upon the filing hereof with the Division of the Federal Register.<sup>1</sup>

The foregoing addition shall become a part of the Selective Service Regulations, effective immediately upon the filing hereof with the Division of the Federal Register.

LEWIS B. HERSHEY,  
Director.

AUGUST 1, 1942.

[F. R. Doc. 42-8355; Filed, August 26, 1942;  
11:46 a. m.]

[No. 113]

#### EMPLOYMENT REGISTRATION ORDER PRESCRIBING FORM

By virtue of the Selective Training and Service Act of 1940 (54 Stat. 885), and the authority vested in me by the rules and regulations prescribed by the President thereunder and more particularly the provisions of § 605.51 of the Selective Service Regulations, I hereby prescribe the following change in DSS forms:

Addition of a new form designated as DSS Form 327, entitled "Employment Registration," effective immediately upon the filing hereof with the Division of the Federal Register.<sup>1</sup>

The foregoing addition shall become a part of the Selective Service Regulations, effective immediately upon the filing hereof with the Division of the Federal Register.

LEWIS B. HERSHEY,  
Director.

JULY 31, 1942.

[F. R. Doc. 42-8356; Filed, August 26, 1942;  
11:46 a. m.]

[No. 114]

#### REPORT OF DISCHARGE OR SEPARATION FROM ACTIVE SERVICE

##### ORDER PRESCRIBING FORM

By virtue of the Selective Training and Service Act of 1940 (54 Stat. 885), and the authority vested in me by the rules and regulations prescribed by the President thereunder and more particularly the provisions of § 605.51 of the Selective Service Regulations, I hereby prescribe the following change in DSS forms:

Discontinuance of DSS Form 173, entitled "Report of Discharge or Separation From Active Service," effective immediately upon the filing hereof with the Division of the Federal Register.<sup>1</sup>

The foregoing discontinuance shall become a part of the Selective Service

Regulations, effective immediately upon the filing hereof with the Division of the Federal Register.

LEWIS B. HERSHEY,  
Director.

AUGUST 25, 1942.

[F. R. Doc. 42-8357; Filed, August 26, 1942;  
11:45 a. m.]

#### Chapter IX—War Production Board Subchapter B—Director General for Operations PART 1072—SOLE LEATHER [Supplementary Order M-80-b]

##### MANUFACTURERS BENDS

§ 1072.3 *Supplementary Order M-80-b.* Pursuant to paragraph (b) (1) of Order M-80 as amended to August 5, 1942,<sup>1</sup> which this order supplements, each person tanning sole leather for his own account or causing sole leather to be tanned for his account by others shall set aside during the period from September 1, 1942, to September 30, 1942, inclusive, at least 15% of the quantity of manufacturers bends produced by him for his own account, or produced for his account by others, during that period. Of this portion set aside not less than 70% nor more than 75% shall consist of bends of eight iron and up, and the quality of said portion set aside shall be proportionately equal, as nearly as can be, to that of the manufacturers bends not so set aside.

(P.D. Reg. 1, as amended, 6 F.R. 6680; W.P.B. Reg. 1, 7 F.R. 561; E.O. 9024, 7 F.R. 329; E.O. 9040, 7 F.R. 527; E.O. 9125, 7 F.R. 2719; sec. 2 (a), Pub. Law 671, 76th Cong., as amended by Pub. Laws 89 and 507, 77th Cong.)

Issued this 26th day of August 1942.

AMORY HOUGHTON,  
Director General for Operations.

[F. R. Doc. 42-8347; Filed, August 26, 1942;  
11:42 a. m.]

##### PART 1074—VITAMIN A

[General Limitation Order L-40, as Amended  
August 26, 1942]

Section 1074.1 *General Limitation Order L-40*<sup>2</sup> is hereby amended to read as follows:

§ 1074.1 *General Limitation Order L-40—(a) Definitions.* For the purposes of this order:

(1) "Vitamin A" shall include Vitamin A and its "pro-vitamins" such as carotenes and cryptoxanthin derived from plant, animal, fish or marine animal sources.

(2) "Fish liver oils" shall mean oils containing Vitamin A derived, extracted, or processed from livers of the cod, shark, halibut, or other fish.

(3) "Feed" shall mean natural or artificial feedstuffs or rations or other substances intended for poultry, cattle, fur-bearing or other animals, as a complete

ration, or as a component of, or in reinforcement of, other diets.

(b) *General restrictions.* (1) Except as provided in paragraph (b) (2) of this order, no person shall, on or after April 10, 1942, manufacture any preparation represented to contain more than 5,000 U. S. P. XI units of Vitamin A in the largest daily dosage recommended by the manufacturer or seller for adult use.

(2) The restrictions of paragraph (b) (1) of this order shall not apply to the manufacture of preparations represented to contain 25,000 or more U. S. P. XI units of Vitamin A in the smallest daily dosage recommended by the manufacturer or seller for adult use; and the restrictions of paragraph (b) (1) of this order shall not apply to the manufacture of preparations recognized in the U. S. P. or N. F.

(3) Except as provided in paragraph (b) (4) of this order, no person shall manufacture or prepare feeds, which, in the form recommended by the manufacturer or seller to be consumed, contain more than 2,000 U. S. P. XI units of Vitamin A supplied by fish liver oils or other fish oils per pound of total ration; except that for all turkey feeds and poultry breeding feeds the limitation shall be 3,000 U. S. P. XI units of Vitamin A supplied by fish liver oils or other fish oils per pound of total ration.

(4) The restrictions of paragraph (b) (3) of this order shall not apply to stocks of fish liver oils or other fish oils, which, on February 10, 1942, were in the hands of, or in transit to, or blended and held in stock for the account of, persons who have purchased such oil for use by them as one of the ingredients of their manufactured feeds; nor shall the restrictions of paragraph (b) (3) of this order apply to any person who mixes or prepares feeds which are consumed by his own poultry or animals.

(c) *Applicability of General Preference Order M-71, as amended.* All sales, purchases, and deliveries of fish liver oils and other fish oils shall continue to be subject to the provisions and restrictions of General Preference Order M-71, as amended from time to time.

(d) *Applicability of priorities regulations.* This order and all transactions affected thereby are subject to all applicable provisions of the priorities regulations of the War Production Board, as amended from time to time.

(e) *Violations.* Any person who willfully violates any provision of this order, or who, in connection with this order, willfully conceals a material fact or furnishes false information to any department or agency of the United States is guilty of a crime, and upon conviction may be punished by fine or imprisonment. In addition, any such person may be prohibited from making or obtaining further deliveries of, or from processing or using, material under priority control and may be deprived of priorities assistance.

(f) *Appeals.* Any person affected by this order who considers that compliance therewith would work an exceptional and unreasonable hardship upon him, or that it would result in a serious problem of

<sup>1</sup> 7 F.R. 6076.

<sup>2</sup> 7 F.R. 928, 2785.

<sup>1</sup> Filed as part of the original document.

unemployment in his community, or that compliance with this order would disrupt or impair a program of conversion from non-defense to defense work, may appeal to the War Production Board by letter or telegram setting forth the pertinent facts and the reasons why he considers he is entitled to relief. The Director General for Operations may thereupon take such action as he deems appropriate.

(g) *Communications to War Production Board.* All communications concerning this order shall, unless otherwise directed, be addressed to, "War Production Board, Health Supplies Branch, Washington, D. C. Ref.: L-40" (P.D. Reg. 1, as amended, 6 F.R. 6680; W.P.B. Reg. 1, 7 F.R. 561; E.O. 9024, 7 F.R. 329; E.O. 9040, 7 F.R. 527; E.O. 9125, 7 F.R. 2719; sec. 2 (a), Pub. Law 671, 76th Cong., as amended by Pub. Laws 89 and 507, 77th Cong.)

Issued this 26th day of August 1942.

AMORY HOUGHTON,  
Director General for Operations.

[F. R. Doc. 42-8351; Filed August 26, 1942;  
11:41 a. m.]

#### PART 1173—RUBBER YARN AND ELASTIC THREAD

[Conservation Order M-124 as Amended  
August 26, 1942]

Section 1173.1 *Conservation Order M-124* is hereby amended to read as follows:

§ 1173.1 *Conservation Order M-124—*  
(a) *Applicability of priorities regulations.* This order and all transactions affected thereby are subject to all applicable provisions of priorities regulations of the War Production Board, as amended from time to time.

(b) *Restrictions on use and delivery.* No person shall knit, weave or otherwise process or use, sell, deliver, purchase, order or accept any rubber yarn, latex yarn or elastic thread except:

(1) To be incorporated into products required to be delivered under actual orders or contracts with:

(i) The Army or Navy of the United States, the United States Maritime Commission, the War Shipping Administration, the Panama Canal, the Coast and Geodetic Survey, the Coast Guard, the Selective Service System, the Civil Aeronautics Administration, the National Advisory Committee for Aeronautics, and the Office of Scientific Research and Development;

(ii) Any agency of the United States Government for delivery to, or for the account of, the Government of any country pursuant to the Act of March 11, 1941, entitled "An Act to Promote the Defense of the United States" (Lend-Lease Act): *Provided, however,* That such yarn or thread shall be used only to the minimum extent necessary to comply with the specifications of the prime contract involved and that any rubber yarn, latex yarn, or elastic thread in the inventory or under

the control of any person now or hereafter holding such order or contract not consumed in the performance thereof shall be reported immediately to the War Production Board.

(2) For sale and delivery by or to the Defense Supplies Corporation or its representatives.

(3) Any rubber yarn, latex yarn or elastic thread in a retail merchant's stock as such.

(c) *Reports.* Each person, other than the Defense Supplies Corporation or its representatives, shall report immediately to the War Production Board the total poundage, manufacturer's style number, core size and kind of covering of each item of rubber yarn, latex yarn, or elastic thread in his inventory or under his control, except such yarn or thread which on March 29, 1942, was in a retail merchant's stock as such.

(d) *Appeals.* Any person affected by this order who considers that compliance therewith would work an exceptional and unreasonable hardship upon him may appeal to the War Production Board, setting forth the pertinent facts and the reasons why he considers himself entitled to relief. The Director General for Operations may thereupon take such action as is deemed appropriate.

(e) *Communications.* All reports required to be filed under, and all communications concerning, this order shall be addressed to; War Production Board, Textile, Clothing and Leather Branch, Washington, D. C., Reference M-124.

(f) *Audit and inspection.* All records required to be kept by this order shall, upon request, be submitted to audit and inspection by duly authorized representatives of the War Production Board.

(g) *Violations.* Any person who willfully violates any provision of this order, or who, in connection with this order, willfully conceals a material fact or furnishes false information to any department or agency of the United States is guilty of a crime, and upon conviction may be punished by fine or imprisonment. In addition, any such person may be prohibited from making or obtaining further deliveries of, or from processing or using, material under priority control and may be deprived of priorities assistance.

(h) *Effective date.* This order shall take effect immediately except that paragraph (b) shall take effect September 9, 1942, as to rubber yarn, latex yarn or elastic thread for industrial inhalators, respirators, hose masks, gas masks, goggles and shoes, and surgical stockings, artificial limbs and surgical elastic bandage for joints. (P.D. Reg. 1, as amended, 6 F.R. 6680; W.P.B. Reg. 1, 7 F.R. 561; E.O. 9024, 7 F.R. 329; E.O. 9040, 7 F.R. 527; E.O. 9125, 7 F.R. 2719; sec. 2 (a), Pub. Law 671, 76th Cong., as amended by Pub. Laws 89 and 507, 77th Cong.)

Issued this 26th day of August, 1942.

AMORY HOUGHTON,  
Director General for Operations.

[F. R. Doc. 42-8346; Filed, August 26, 1942;  
11:41 a. m.]

#### PART 1188—RAILROAD EQUIPMENT

[Interpretation 1 of Supplementary General Limitation Order L-97-a-1]

The following official interpretation is hereby issued with respect to *Supplementary General Limitation Order L-97-a-1* (§ 1188.3):

A railroad which produces or repairs railroad equipment shall be deemed to be engaged in the same business as a producer of railroad cars within the meaning of paragraph (c) (2) (iii) of Priorities Regulation No. 13 which permits a special sale "by a producer to another producer engaged in the same business as the seller, but only if an order of the Director applicable generally to persons engaged in such business expressly permits such a sale." Accordingly, sales to such a railroad are permitted to the extent and upon the conditions specified in Supplementary General Limitation Order No. L-97-a-1 as amended. (P.D. Reg. 1, as amended, 6 F.R. 6680; W.P.B. Reg. 1, 7 F.R. 561; E.O. 9024, 7 F.R. 329; E.O. 9040, 7 F.R. 527; E.O. 9125, 7 F.R. 2719; sec. 2 (a), Pub. Law 671, 76th Cong., as amended by Pub. Laws 89 and 507, 77th Cong.)

Issued this 26th day of August 1942.

AMORY HOUGHTON,  
Director General for Operations.

[F. R. Doc. 42-8349; Filed, August 26, 1942;  
11:41 a. m.]

#### PART 1255—INVENTORY RESTRICTION EXCEPTIONS

[Amendment 6 to General Inventory Order M-161]

##### SILICATE OF SODA

Section 1255.1 *General Inventory Order M-161* is hereby further amended by adding to the materials listed on Schedule A attached to said order the following:

Silicate of soda.

(P.D. Reg. 1, as amended, 6 F.R. 6680; W.P.B. Reg. 1, 7 F.R. 561; E.O. 9024, 7 F.R. 329; E.O. 9040, 7 F.R. 527; E.O. 9125, 7 F.R. 2719; sec. 2 (a), Pub. Law 671, 76th Cong., as amended by Pub. Laws 89 and 507, 77th Cong.)

Issued this 26th day of August 1942.

AMORY HOUGHTON,  
Director General for Operations.

[F. R. Doc. 42-8350; Filed, August 26, 1942;  
11:42 a. m.]

#### PART 1279—ELASTIC FABRICS, KNITTED, WOVEN OR BRAIDED

[Conservation Order M-174 as Amended  
August 26, 1942]

Section 1279.1 *Conservation Order M-174* is hereby amended to read as follows:

§ 1279.1 *Conservation Order M-174—*  
(a) *Definition of elastic fabric.* For the

<sup>1</sup> 7 F.R. 3152, 3574, 4031, 4205.

<sup>2</sup> 7 F.R. 4174, 4778, 4779, 5663, 5985, 6208.

purposes of this order, "elastic fabric" shall mean any fabric knitted, woven or braided containing bare rubber core or covered rubber thread, six inches in width or less of any quality or in any condition whatsoever.

(b) *Restrictions on use and delivery.* Notwithstanding the provisions of any other conservation or limitation order, no person shall process, cut, change the form of, attach, sew on, sell, deliver, purchase or accept any elastic fabric except to fill actual orders or contracts with

(1) The Defense Supplies Corporation or its representatives;

(2) The Army or Navy of the United States, the United States Maritime Commission, the War Shipping Administration, the Panama Canal, the Coast and Geodetic Survey, the Coast Guard, the Selective Service System, the Civil Aeronautics Administration, the National Advisory Committee for Aeronautics and the Office of Scientific Research and Development;

(3) Any agency of the United States Government for delivery to or for the account of the Government of any country pursuant to the Act of March 11, 1941, entitled "An Act to promote the Defense of the United States" (Lend-Lease Act): *Provided, however,* That the Director General for Operations may specifically authorize the processing and delivery of elastic fabric for such other products and purposes as in his judgment may be necessary to promote the national defense and public interest.

(c) *Submission of samples.* Each person, except the Governments, departments and agencies described in paragraph (b), possessing any elastic fabric shall immediately submit to the Allocations and Appeals Section of the Textile, Clothing and Leather Branch, War Production Board, Washington, D. C., Reference M-174, a sample not less than three feet long of each construction, width and color of elastic fabric in his inventory or under his control together with a statement showing the cost price, total quantity, and the portion thereof required to fill actual orders or contracts with said Governments, departments and agencies, of each such construction, width and color of elastic fabric.

(d) *General exceptions.* The provisions of paragraphs (b) and (c) shall not apply to

(1) Any elastic fabrics which, on or before the opening of business on June 20, 1942, were already packaged in the customary retail packaging of such fabrics, where such packaging differs in both put-up and amount of fabric from the packaging of the same fabric for distribution to processors, manufacturers, or any persons other than retail distributors or persons selling to retail distributors;

(2) Any elastic fabric heretofore specifically released, after application or appeal, by the Director General for Operations or his predecessor.

(e) *Appeals.* Any person affected by this order who considers that compliance therewith would work an exceptional and unreasonable hardship upon him may

appeal by letter to the War Production Board, setting forth the pertinent facts and reasons why he considers himself entitled to relief, provided he complies with paragraph (c) of the order if subject thereto. The War Production Board may thereupon take such action as is deemed appropriate.

(f) *Reports.* Each person participating in any transaction involving elastic fabric shall execute and file with the War Production Board such reports and questionnaires as may be requested by the Board from time to time.

(g) *Communications.* All reports required to be filed under, and all communications concerning, this order shall be addressed to: War Production Board, Textile, Clothing and Leather Branch, Washington, D. C., Reference M-174.

(h) *Records.* Each person participating in any transaction involving elastic fabric shall keep and preserve for a period of not less than two years accurate and complete records of his inventories, production, sales and transactions of such material.

(i) *Audit and inspection.* All records required to be kept by this order shall, upon request, be submitted to audit and inspection by duly authorized representatives of the War Production Board.

(j) *Applicability of priorities regulations.* This order and all transactions affected thereby are subject to all applicable provisions of priorities regulations of the War Production Board, as amended from time to time.

(k) *Violations.* Any person who wilfully violates any provision of the order, or who, in connection with this order, wilfully conceals a material fact or furnishes false information to any department or agency of the United States is guilty of a crime, and upon conviction may be punished by fine or imprisonment. In addition, any such person may be prohibited from making or obtaining further deliveries of, or from processing or using, material under priority control and may be deprived of priorities assistance.

(l) *Effective date.* This order shall take effect immediately except that paragraph (b) shall take effect September 9, 1942 as to elastic fabric for industrial inhalators, respirators, hose masks, gas masks, goggles and shoes, and surgical stockings, artificial limbs and surgical elastic bandage for joints. (P.D. Reg. 1, as amended, 6 F.R. 6680; W.P.B. Reg. 1, 7 F.R. 561; E.O. 9024, 7 F.R. 329; E.O. 9040, 7 F.R. 527; E.O. 9125, 7 F.R. 2719; sec. 2 (a), Pub. Law 671, 76th Cong., as amended by Pub. Laws 89 and 507, 77th Cong.)

Issued this 26th day of August 1942.

AMORY HOUGHTON,  
Director General for Operations.

[F. R. Doc. 42-8345; Filed, August 26, 1942;  
11:41 a. m.]

#### PART 3054—CATTLE TAIL HAIR

[General Conservation Order M-210]

The fulfillment of requirements for the defense of the United States has created a shortage in the supply of cattle tail

hairs for defense, for private account and for export; and the following order is deemed necessary and appropriate in the public interest and to promote the national defense:

§ 3054.1 *General Conservation Order M-210—(a) Applicability of priorities regulations.* This order and all transactions affected thereby are subject to all applicable provisions of the priorities regulations of the War Production Board, as amended from time to time.

(b) *Definitions.* For the purposes of this order "cattle tail hair" means the hair clipped or otherwise removed from the tails or switches of cattle, including calves and oxen, whether imported or domestic, new or reclaimed, of original color or dyed, washed or unwashed, and includes all such hair mixed in combination with other hair or fiber in any percentage which is not physically incorporated into any product, but does not include used hair unless and until it has been reclaimed.

(c) *Restrictions on sales and use.* Except as provided in paragraph (d) below, no person shall, after the effective date of this order, sell or deliver, or purchase or accept delivery of, or process or use, any cattle tail hair.

(d) *Exceptions to restrictions.* The restrictions imposed by paragraph (c) above shall not apply to:

(1) The processing or use of cattle tail hair in the manufacture of products to be delivered under orders placed by, or contracts held by any person with, the Army or Navy of the United States, the United States Maritime Commission, or the War Shipping Administration.

(2) Sales and deliveries of cattle tail hair to be physically incorporated into products to be delivered under orders placed by, or contracts held by any person with, the Army or Navy of the United States, the United States Maritime Commission or the War Shipping Administration, *provided, however,* that no person shall make any such sale or delivery of any cattle tail hair unless he shall have first received from the purchaser a certificate signed by such purchaser, or by a person authorized to sign in his behalf, in substantially the following form:

The undersigned hereby certifies to his vendor and to the War Production Board subject to the provisions of section 35 (A) of the United States Criminal Code (18 U. S. C. A. 80) that the cattle tail hair to be delivered on the annexed purchase order will be physically incorporated into products to be delivered to or for the account of the Army or Navy of the United States, the United States Maritime Commission, or the War Shipping Administration, or will be resold for such purpose.

(e) *Appeal.* Any person affected by this order who considers that compliance therewith would work an exceptional and unreasonable hardship upon him, or that it would result in a degree of unemployment which would be unreasonably disproportionate compared with the amount of cattle tail hair conserved, or that compliance with this order would disrupt or impair a program of conversion from nondefense to defense work, may appeal to the War Production Board by letter or telegram, reference M-210, setting

forth the pertinent facts and the reason he considers he is entitled to relief. The Director General for Operations may thereupon take such action as he deems appropriate.

(f) *Violations.* Any person who willfully violates any provision of this order, or who, in connection with this order, willfully conceals a material fact or furnishes false information to any department or agency of the United States is guilty of a crime, and upon conviction may be punished by fine or imprisonment. In addition, any such person may be prohibited from making or obtaining further deliveries of, or from processing or using, material under priority control and may be deprived of Priorities assistance.

(g) *Communications to the War Production Board.* All reports required to be filed hereunder, and all communications concerning this order, shall, unless otherwise directed, be addressed to: War Production Board, Textile, Clothing and Leather Branch, Washington, D. C., Reference: M-210.

(h) *Effective date.* This order shall take effect on September 2, 1942. (P.D. Reg. 1, as amended, 6 F.R. 6680; W.P.B. Reg. 1, 7 F.R. 561; E.O. 9024, 7 F.R. 329; E.O. 9040, 7 F.R. 527; E.O. 9125, 7 F.R. 2719; sec. 2 (a), Pub. Law 671, 76th Cong., as amended by Pub. Laws 89 and 507, 77th Cong.)

Issued this 26th day of August 1942.

AMORY HOUGHTON,  
Director General for Operations.

[F. R. Doc. 42-8348; Filed, August 26, 1942;  
11:42 a. m.]

#### Chapter XI—Office of Price Administration

##### PART 1336—RADIO, X-RAY, AND COMMUNICATION APPARATUS

[Correction to Amendment 2 to Revised Price Schedule 84<sup>1</sup>]

###### RADIO RECEIVER AND PHONOGRAPH PARTS

In § 1336.101 (d) the words "the period from October 1 to October 15, 1942," are corrected to read "the period from October 1 to October 15, 1941."

§ 1336.110a *Effective dates of amendments.* \* \* \*

(d) Correction (§ 1336.101 (d)) to Amendment No. 2 to Revised Price Schedule No. 84 shall become effective August 25, 1942.

(Pub. Law 421, 77th Cong.)

Issued this 25th day of August 1942.

LEON HENDERSON,  
Administrator.

[F. R. Doc. 42-8314; Filed, August 25, 1942;  
12:02 p. m.]

<sup>1</sup> 7 F.R. 1362, 1836, 2000, 2132, 2169, 2303, 2512, 2543, 3821.

##### PART 1337—RAYON

[Amendment 3 to Revised Price Schedule 23, as Amended]

###### RAYON GREY GOODS

A statement of the considerations involved in the issuance of this Amendment has been issued simultaneously herewith and filed with the Division of the Federal Register.\*

Section 1337.11 is amended as set forth below:

§ 1337.11 *Definitions.* (a) \* \* \*

(3) "Rayon grey goods" means a fabric manufactured from chemically produced fibers made from cellulose or with a cellulose base, woven but not printed, dyed or finished, and

(i) Shall include any fabric which shall be constructed in any one of the following manners:

(a) Any fabric so constructed that 80 per cent or more of its ends by count in the warp shall consist of rayon;

(b) Any fabric so constructed that 80 per cent or more of its picks by count in the filling shall consist of rayon;

(c) Any fabric constructed with a plied yarn in the warp and the filling where one of the threads in the ply used in the warp and the filling is rayon yarn, even though the total weight content of the rayon is less than 50 per cent of the total weight of the fabric; and

(d) Any fabric so constructed that 50 per cent or more of its total weight content is composed of rayon except for fabrics containing 25 per cent or more of wool that are woven on a woolen loom.

(ii) And shall not include the following:

(a) Any woven decorative fabric which is customarily used for furniture coverings, draperies, furniture or automobile slip-covers or bedspreads and for which maximum prices are established by Maximum Price Regulation No. 39<sup>1</sup>—Woven Decorative Fabrics.

§ 1337.12a *Effective dates of amendments.* \* \* \*

(c) Amendment No. 3 (§ 1337.11 (a) (3)) to Revised Price Schedule No. 23, as amended, shall become effective August 31, 1942.

(Pub. Law 421, 77th Cong.)

Issued this 25th day of August 1942.

LEON HENDERSON,  
Administrator.

[F. R. Doc. 42-8315; Filed, August 25, 1942;  
12:04 p. m.]

\*Copies may be obtained from the Office of Price Administration.  
<sup>1</sup> 7 F.R. 5243, 5512.

##### PART 1389—APPAREL

[Amendment 1 to Maximum Price Regulation 178<sup>1</sup>]

###### WOMEN'S FUR GARMENTS

A statement of the considerations involved in the issuance of this amendment has been issued simultaneously herewith and has been filed with the Division of the Federal Register.\*

In § 1389.152, paragraph (a) is amended and new paragraph (c) is added, in § 1389.153, the text and paragraphs (a) and (c) are amended and new paragraphs (d) and (e) are added, § 1389.154 is amended, in § 1389.158, paragraph (b) is amended, in § 1389.159, the headnote is amended and a new paragraph (c) is added, in § 1389.160, in paragraph (a), a new subparagraph (5) is added and in paragraph (c), the caption is amended, § 1389.161 is amended, in § 1389.165, in paragraph (a), in subparagraph (2), subdivision (i) is amended and a new subdivision (vii) is added, subparagraphs (9) and (10) are amended, and new subparagraphs (10a) and (15) are added, a new § 1389.166a is added, as set forth below:

§ 1389.152 *Maximum prices for sales of women's fur garments by wholesalers and retailers.* (a) The maximum prices for the sale of any women's fur garment by wholesalers or retailers, except as provided in paragraphs (b) and (c) of this section, shall be the sum of:

(1) The cost to the seller of the garment being priced, and

(2) The seller's initial percentage markup over cost on the same classification of garment of the same kind of skin, (i) by sellers at wholesale, during the months of June, July and August, 1941, inclusive; (ii) by sellers at retail, during the months of July to December 1941, inclusive: *Provided*, That in no event shall the maximum price be higher than the highest price charged by the seller for the same category of women's fur garment delivered during the period mentioned in (i) or (ii) of this paragraph, if the seller made such delivery; or if he made no such delivery, then the highest initial offering price at which he offered for sale, the same category of women's fur garment during the aforementioned period.

(c) Any wholesaler or retailer who had unconditionally purchased any women's fur garments on or before July 10, 1942, may sell, deliver and offer for sale such women's fur garments at a maximum price determined, by adding the cost to the seller of the garment being priced, to the seller's initial percentage markup over cost on that classification

\*Copies may be obtained from the Office of Price Administration.  
<sup>1</sup> 7 F.R. 5277.

of garment and kind of skin, on which he has established the lowest initial percentage markup under paragraph (a) hereof: *Provided*, That only those garments unconditionally purchased on or before July 10, 1942, may be sold, delivered and offered for sale at maximum prices established pursuant to this paragraph: *Provided further*, That before offering any such women's fur garments for sale, he shall file under oath or affirmation with the appropriate district, state or regional office of the Office of Price Administration, a statement setting forth the following:

- (1) The name and address of the seller,
- (2) The number and description of such women's fur garments, and the name of the supplier of each garment,
- (3) Date of purchase of each garment,
- (4) Cost to the seller of each garment,
- (5) A description of the classification of each garment and the kind of skin on which the seller had the lowest initial percentage markup over cost during the base period, amount of such markup, and
- (6) The selling price of each garment.

§ 1389.153 *Maximum prices for sales of women's fur garments by a manufacturer.* Except as provided in paragraph (b) of this section, the maximum price for the sale of any women's fur garment by a manufacturer shall be:

- (a) *On sales to wholesalers and retailers.* The sum of:
  - (1) The direct cost of the garment to the manufacturer, and
  - (2) The same percentage margin over direct cost received by the manufacturer upon the sale of the same classification of women's fur garment of the same kind of skin, which was delivered to wholesalers and retailers in June, July and August, 1942: *Provided*, That in no event shall the maximum price be higher than the highest price charged by the seller for the same category of women's fur garment delivered during the months of June, July and August, 1941, to wholesalers and retailers:

(c) *On sales at retail by manufacturers,* the maximum selling prices established pursuant to paragraph (a) or (b) of this section may be increased by an amount not exceeding 20%.

(d) *On sales at retail by manufacturing retailers,* the sum of the direct cost to the seller of the garment being priced and the same percentage margin over direct cost received by the seller upon the sale of the same classification of women's fur garments of the same kind of skin, which was delivered in the months of July to December 1941, inclusive: *Provided*, That in no event shall the maximum price be higher than the highest price charged by the seller for the same category of women's fur garment delivered during the months of July to December 1941, inclusive.

(e) Upon the sale of a woman's fur coat, where a muslin pattern is required and is made especially for the purchaser

and at his request, a manufacturer may add an amount not exceeding \$15 to the maximum price established pursuant to paragraph (a), (c) or (d) of this section.

§ 1389.154 *Maximum prices for women's fur garments which cannot be priced under §§ 1389.152 and 1389.153.* The seller's maximum price for women's fur garments which cannot be priced under § 1389.152 or § 1389.153 shall be a maximum price in line with the level of maximum prices established by this Maximum Price Regulation No. 178. Such price shall be a price determined by the seller after specific authorization from the Office of Price Administration, as follows:

(a) A retailer or a manufacturing retailer, who did not sell women's fur garments prior to January 1, 1942, or who has since January 1, 1942, but prior to July 10, 1942, substantially expanded his establishment selling at retail, shall file in duplicate an application under oath or affirmation with the appropriate district, state or regional office of the Office of Price Administration, setting forth the following:

- (1) A description of each garment for which a maximum price is sought, and its cost to the seller;
- (2) The name and address of one of his most closely competitive sellers of the same class;
- (3) For each garment, the maximum price established by such competitor for the same garment or the similar garment most nearly like it of the same category; and
- (4) Such other information as the Office of Price Administration may deem necessary.

If such authorization be given, it will be accompanied by instructions as to the method of determining the maximum price. Within ten days after such price has been determined, the seller shall report such price to the Office of Price Administration upon a form duly filled out under oath or affirmation which will be furnished to him. The price so reported shall be subject to adjustment by the Office of Price Administration.

(b) All other sellers who seek an authorization to determine their maximum prices under the provisions of this section shall file with the Office of Price Administration in Washington, D. C., an application setting forth:

- (1) A description in detail of the commodity for which the maximum price is sought;
- (2) A statement of the reasons why they cannot price this garment under § 1389.152 or § 1389.153; and
- (3) Such other information as the Office of Price Administration may deem necessary.

If such authorization be given, it will be accompanied by instructions as to the method of determining the maximum price. Within ten days after such price has been determined, the seller shall report such price to the Office of Price Administration upon a form duly filled out and filed under oath or affirmation, which will be furnished him.

The price so reported shall be subject to adjustment by the Office of Price Administration.

§ 1389.158 *Applicability of the General Maximum Price Regulation.* \* \* \*

(b) The provisions of § 1499.4 *Supplemental Regulations*, § 1499.5 *Transfers of business or stock in trade*, § 1499.15 *Registration*, § 1499.16 *Licensing*, and § 1499.18 *Applications for adjustment*, § 1499.4a *Determination of maximum prices by sellers at retail operating more than one retail establishment*, of the General Maximum Price Regulation<sup>2</sup> and any amendments to any of the foregoing shall apply to all sales for which maximum prices are established by this Maximum Price Regulation No. 178 and to all persons making such sales. References in § 1499.18 of the General Maximum Price Regulation<sup>2</sup> to §§ 1499.2 and 1499.3 thereof, for the purposes of this Maximum Price Regulation No. 178 shall be deemed to refer to §§ 1389.152, 1389.153, and 1389.154.

§ 1389.159 *Invoices, sales slips, and receipts; notification and disclosure to retailers.* \* \* \*

(c) Every person delivering a woman's fur garment to any purchaser for sale at retail shall within ten days of the first delivery to said purchaser after August 26, 1942, supply such purchaser with the text of §§ 1389.152, 1389.154, 1389.156, 1389.157, 1389.159 (a), 1389.160 (c), 1389.165 (a) (1), (2), (3), (4), (5), (8), (9), (11), (14), and 1389.167: *Provided*, That if such first delivery is made prior to August 26, 1942, the text of such section may be supplied within ten days after August 26, 1942.

§ 1389.160 *Records.* \* \* \*

(a) *As to manufacturers.* \* \* \*

(5) Every manufacturer shall prepare on or before September 15, 1942, on the basis of all available information and records, and keep for the inspection of the Office of Price Administration a statement showing:

(i) Each category of each classification of women's fur garment (in the detail prescribed by § 1389.165 (a) (3)) delivered during the months of June, July and August, 1941, and the highest price received for each such category;

(ii) Each classification of women's fur garment and each kind of skin delivered by the seller during June, July and August 1941, and the percentage margin, as defined in § 1389.165 (a) (13), received by the seller for each classification of women's fur garment and each kind of skin.

(c) *As to retailers and manufacturing retailers.* \* \* \*

§ 1389.161 *Reports.* There shall be submitted to the Office of Price Administration such reports as it may from time to time require.

<sup>2</sup> *Supra* note 1.

§ 1389.165 *Definitions.* (a) \* \* \*

(2) \* \* \*  
(i) Jackets and capes under 32 inches in length.

(vii) Women's fur hats of which the entire external part is completely made of furs.

(9) "Initial percentage markup" shall be determined by the following procedure:

(i) From the total of all the selling prices at which each separate purchase of each classification of garment of each kind of skin was first offered for sale during the applicable base period, there shall be subtracted:

(ii) The total of the cost to the seller of those garments, and

(iii) The remainder thus obtained shall be divided by the total of the cost to the seller as determined in (ii) of this paragraph;

(10) "Manufacturer" shall include any person who fabricates a woman's fur garment from skins owned by him, except a manufacturing retailer;

(10a) "Manufacturing retailer" shall include any manufacturer who customarily sells more than 75% of his output at retail and maintains an establishment selling at retail;

(15) "Seller" means a seller of women's fur garments. For the purposes of this section where a seller during his last selling season made sales through separate departments or separate units, each separate department and each separate unit or place of business shall be deemed to be a separate seller.

§ 1389.166a *Effective dates of amendments.* (a) Amendment No. 1, (§ 1389.152 (a) and (c), § 1389.153 (a), (c), (d) and (e), § 1389.154, § 1389.158 (b), § 1389.159 (c), § 1389.160 (a) (5) and (c), § 1389.161, § 1389.165 (a) (2) (i), (vii), (a) (9), (10), (10a), (15)) to Maximum Price Regulation No. 178 shall become effective August 26, 1942.

(Pub. Law 421, 77th Cong.)

Issued this 25th day of August 1942.

LEON HENDERSON,  
Administrator.

[F. R. Doc. 42-8316; Filed, August 25, 1942;  
12:01 p. m.]

## PART 1398—OFFICE AND STORE MACHINES

[Amendment 4 to Revised Rationing  
Order 4<sup>1</sup>]

## NEW AND USED TYPEWRITERS

Amended: §§ 1398.101, 1398.104 (a) and (c), 1398.110 (g).

Added: §§ 1398.102 (a) (8), 1398.104 (a) (1), (a) (2), (a) (3), and (b) (1), 1398.110 (j).

§ 1398.101 *Restrictions of sales and deliveries of typewriters.* On and after August 29, 1942, regardless of any con-

<sup>1</sup> F. R. 2317, 2792, 4179, 5188.

tract of sale, contract to sell, agreement, lease or other obligation, no person shall sell or deliver a typewriter, or offer to sell or deliver a typewriter, and no person shall buy or receive a typewriter, or offer to buy or receive a typewriter, except in accordance with the provisions of §§ 1398.102, 1398.103, 1398.104 and 1398.105. No manufacturer, wholesaler, or dealer shall divert to his use any typewriter from his stock carried for resale or rental, except in accordance with the provisions for receipt, purchase, or rental of typewriters in §§ 1398.103, 1398.104 and 1398.105.

*Provided, however,* That nothing in this section shall be deemed to prohibit or regulate the sale or delivery of any typewriter manufactured prior to January 1, 1915; or of any of the following makes of typewriters: Blickensderfer, Oliver, Barlock, Pittsburgh Visible, Fox, Harris, Rex, Demountable, Emerson, Fay Sholes, Hammond, Sholes Visible, Victor, Wellington, Barr-Morse; or of any model of "stripped" portable typewriter on which the seller's retail selling price, exclusive of Federal excise tax, is \$40.00 or less, and which lacks any one or more of the following features: four rows of keys, upper and lower case type, two-color ribbon device, variable line spacer, right and left hand margin stops, and back spacer.

§ 1398.102 *Persons eligible to receive typewriters without application—(a) New typewriters.* \* \* \*

(8) The Procurement Division of the Treasury Department for the agencies of the federal government within the applicable quota assigned: *Provided,* That purchases for government agencies other than the Army, Navy, or Maritime Commission shall require the prior approval of the Director of Industry Operations of the War Production Board pursuant to application made to the Bureau of Governmental Requirements of the War Production Board. Any person who sells or delivers a typewriter in exchange for a purchase order issued by the Procurement Division of the Treasury Department shall retain a copy of such order in accordance with § 1398.107.

§ 1398.104 *Rental of typewriters—(a) Limitations on rentals.* On and after August 29, 1942, the following typewriters shall not be rented, leased, or loaned: new non-portable typewriters; new portable typewriters, except "stripped" portables released for unrestricted sale pursuant to § 1398.101; and used non-portable typewriters manufactured after January 1, 1935. No person shall rent, lease, or lend any other typewriter to another person, or renew a rental, lease, or loan of any typewriter to another person, except as provided in subparagraphs (1), (2), and (3) of this paragraph. *Provided,* That any person who is eligible to buy or receive a typewriter without application pursuant to § 1398.102, or any person, in exchange for an Authorization issued pursuant to § 1398.102 or certificate issued pursuant to §§ 1398.103 and 1398.105 for the purchase of a typewriter, may buy, receive, or lease such typewriter, whenever manufactured, un-

der any form of agreement, including, but not limited to, a lease with option to purchase or rental credit provision.

(1) *Rental of typewriters regardless of eligibility to buy.* Any person may rent, lease, or borrow from any other person any used non-portable typewriter manufactured prior to January 1, 1935, or any used portable typewriter.

(2) *Lease, rental, and loan periods.* A lease, rental, or loan under this section may be made for a period not to exceed three months, and may be renewed only at the expiration of each rental period for an additional period not to exceed three months.

(3) *Terms and provisions of leases, rentals and loans.* No rental fee shall be charged or accepted in advance for a period exceeding three months. No rental, lease, or loan made under the provisions of subparagraph (1) of this section shall contain an option to purchase or any provision to credit rentals, deposits, or other sums paid toward the purchase price of the rented typewriter. This provision shall not be construed to prevent parties to a typewriter rental agreement, upon the purchase of the rented typewriter pursuant to § 1398.102, or in exchange for a Certificate issued pursuant to § 1398.103 (a) or (b), or after the typewriter has been released for unrestricted sale by the Office of Price Administration, from crediting previously paid rentals toward the purchase price of the typewriter.

(b) \* \* \*  
(1) *Recapture of used non-portable typewriters manufactured since January 1, 1935.* On or before September 15, 1942, all rentals, leases, bailments for use, licenses, hirings, or loans of non-portable typewriters manufactured after January 1, 1935 shall be canceled or revoked by the lessors, bailors, licensors, or lenders, as the case may be, and the typewriters recaptured or repossessed. On or before September 15, 1942, all persons in possession of such typewriters shall return, deliver, or surrender such typewriters to their lessors, bailors, licensors, or lenders, as the case may be. Any dealer, wholesaler or manufacturer, or other person who fails to secure the repossession or return of any such typewriter shall, not later than September 22, 1942, give notice thereof in writing, addressed to State Director, Office of Price Administration, specifying the name and address of the lessee, bailee, licensee, or borrower; the date of original delivery of the typewriter to him; the model, make, and serial number of the typewriter; and the efforts made to secure the return of the typewriter.

*Provided,* That any person, in exchange for an Authorization issued by the War Production Board pursuant to § 1398.102 or a certificate issued by a Local Board pursuant to §§ 1398.103 (a) and 1398.105, may retain upon rental the number of non-portable typewriters manufactured after January 1, 1935, specified in such authorization or certificate; and any wholesaler, dealer, or manufacturer may retain as lessee any non-portable typewriter manufactured after January 1, 1935 which he holds on lease or rental.

(c) *Rental-credit provisions and options to purchase.* Any rental-credit provision (or other provision for crediting rentals paid toward the purchase price of a rented typewriter) or option to purchase contained in an agreement for the rental of a typewriter made prior to March 6, 1942, which rental-credit provision or option was not prior to March 6, 1942, invoked or exercised in writing by the lessee, shall be enforceable only upon presentation of an Authorization or Certification issued pursuant to § 1398.102, or §§ 1398.103 and 1398.105.

§ 1398.110 *Definitions.* When used in the Revised Rationing Order No. 4, the term:

(g) "Typewriter", unless expressly otherwise stated, includes non-portable typewriters (including noiseless and electric types), and portable typewriters. The term shall not include continuous forms handling machines having carbon paper handling devices constructed as an integral part of the machine; shorthand writing machines; telegraphically controlled typewriters; Braille typewriters; toy typewriters; linotype machines or monotype machines.

(j) "Board", "Local Board", or "Local Rationing Board" means a War Price and Rationing Board.

§ 1398.112 *Effective dates of amendments.* \* \* \*

(d) Amendment No. 4, (§§ 1398.101, 1398.102 (a) (8), 1398.104 (a), (a) (1), (a) (2), (a) (3), (b) (1), (c), 1398.110 (g), (j)) to Revised Rationing Order No. 4 shall become effective August 29, 1942.

(Pub. Law 421, 77th Cong. WPB Directive No. 1, Supplementary Directive No. 1D, and Conversion Order No. L-54-a, 7 F.R. 562, 7 F.R. 1792, 7 F.R. 2130.)

Issued this 25th day of August 1942.

LEON HENDERSON,  
Administrator.

[F. R. Doc. 42-8317; Filed, August 25, 1942;  
12:04 p. m.]

#### PART 1400—TEXTILE FABRICS: COTTON, WOOL, SILK, SYNTHETICS AND ADMIXTURES

[Amendment 2 to Maximum Price Regulation 39<sup>1</sup>]

##### WOVEN DECORATIVE FABRICS

A statement of the considerations involved in the issuance of this amendment has been issued simultaneously herewith and has been filed with the Division of the Federal Register.\*

A table of contents is added following the preamble, in § 1400.155, paragraph (b) is amended, in § 1400.160, a new

\*Copies may be obtained from the Office of Price Administration.

<sup>1</sup> 7 F.R. 5243, 5512.

paragraph (c) is added, and in § 1400.161, paragraph (a) (4) is amended and a new paragraph (a) (9) is added as set forth below:

- Sec.  
1400.151 Prohibition against dealing in woven decorative fabrics at prices above the maximum.  
1400.152 Less than the maximum prices.  
1400.153 Adjustable pricing.  
1400.154 Export sales.  
1400.155 Exempt sales.  
1400.156 Limitation of new constructions sold, transferred or delivered by manufacturers.  
1400.157 Reports and records.  
1400.158 Evasion.  
1400.159 Enforcement.  
1400.160 Petitions for amendment and adjustment.  
1400.161 Definitions.  
1400.162 Effective date.  
1400.163 Appendix A: Maximum prices for sales by manufacturers.  
1400.164 Appendix B: Maximum prices for sales by persons other than manufacturers.

AUTHORITY: §§ 1400.151 to 1400.164 Issued under Pub. Law 421, 77th Cong.

##### § 1400.155 *Exempt sales.* \* \* \*

(b) Sales and deliveries of printed woven decorative fabrics when such sales or deliveries are made by a person whose principal business with respect to such fabrics during the period between January 1, 1941 and March 31, 1942 was in fabrics selling at a price of less than 35 cents per yard.

##### § 1400.160 *Petitions for amendment and adjustment.* \* \* \*

(c) A manufacturer who is prepared to show that:

(1) He has maintained prior to July 13, 1942 a cut length sales department separate from his manufacturing business, and

(2) That his maximum prices for sales of woven decorative fabrics by this department as determined in accordance with § 1400.163 subject the department to substantial hardship, may file a petition for the adjustment of his maximum prices for sales by such department. Such a petition shall be filed in accordance with Procedural Regulation No. 1<sup>2</sup> and shall contain, in addition to the evidence required above, a statement of the reasons why the petitioner believes that the granting of relief in his case will not defeat or impair the purposes of the Emergency Price Control Act of 1942 and of this Maximum Price Regulation No. 39.

##### § 1400.161 *Definitions.* \* \* \*

(4) "Woven decorative fabrics" means any finished textile fabric (i) woven on a loom (ii) composed of such fibers as cotton, silk, wool, mohair, synthetic fibers or any mixtures of the foregoing fibers, and (iii) customarily used for furniture coverings, draperies, furniture or automobile slip covers or bedspreads: *Provided*, That the term shall not include

bedspread fabrics for which maximum prices are established by Maximum Price Regulation No. 118.<sup>3</sup>

(9) "Cut length sales department" means a department or branch operated by a woven decorative fabric manufacturer, the principal business of which consists of selling woven decorative fabrics in cut lengths of specified yardage to interior decorators.

##### § 1400.162a *Effective dates of amendments.* \* \* \*

(b) Amendment No. 2 (§ 1400.155, §§ 1400.160 and 1400.161) to Maximum Price Regulation No. 39 shall become effective August 31, 1942.

(Pub. Law 421, 77th Cong.)

Issued this 25th day of August 1942.

LEON HENDERSON,  
Administrator.

[F. R. Doc. 42-8318; Filed, August 25, 1942;  
12:03 p. m.]

#### PART 1499—COMMODITIES AND SERVICES

[Amendment 9 to Supplementary Regulation 14<sup>1</sup> to General Maximum Price Regulation<sup>2</sup>]

##### STORAGE OF PEANUTS

A statement of the considerations involved in the issuance of this amendment has been issued simultaneously herewith and filed with the Division of the Federal Register.\*

A new subparagraph (9) is added to paragraph (a) of § 1499.73 as set forth below:

§ 1499.73 *Modification of maximum prices established by § 1499.2 of General Maximum Price Regulation for certain commodities, services and transactions.*

(a) The maximum prices established by § 1499.2 of the General Maximum Price Regulation for the commodities, services, and transactions listed below are modified as hereinafter provided:

(9) *Warehouse services incident to storage of peanuts performed for the United States Government or any agency thereof.* Maximum prices for the storage and warehousing of peanuts and for services incident thereto shall continue to be determined under the provisions of the General Maximum Price Regulation, except that the maximum prices for the following services, when performed for the United States Government or any agency thereof, shall be as follows:

	Cents per ton
Loading in warehouses.....	75
Loading out of warehouses.....	75

<sup>1</sup> 7 F.R. 5486, 5709, 6008, 5911, 6271, 6369, 6477, 6473.

<sup>2</sup> 7 F.R. 3153, 3330, 3666, 3990, 3991, 4339, 4487, 4659, 4738, 5027, 5276, 5192, 5365, 5445, 5484, 5565, 5775, 5783, 5784, 6058, 6081, 6007, 6216.

<sup>3</sup> 7 F.R. 705, 3038, 3211, 3822, 3578, 3824, 3905, 4405, 5224, 5405, 5445, 5567, 5836, 6005.

\* 7 F.R. 971, 3663.

(b) Effective dates. \* \* \*

(10) Amendment No. 9 (§ 1499.73 (a) (9)) to Supplementary Regulation No. 14 shall become effective August 31, 1942. (Pub. Law 421, 77th Cong.)

Issued this 25th day of August 1942.  
LEON HENDERSON,  
Administrator.

[F. R. Doc. 42-8319; Filed, August 25, 1942;  
12:02 p. m.]

PART 1499—COMMODITIES AND SERVICES  
[Amendment 10 to Supplementary Regulation 14<sup>1</sup> to General Maximum Price Regulation<sup>2</sup>]

#### FINE GRANULATED SUGAR

A statement of the considerations involved in the issuance of this amendment has been issued simultaneously herewith and filed with the Division of the Federal Register.\*

A new subparagraph (10) is added to paragraph (a) of § 1499.73 as set forth below:

§ 1499.73 *Modification of maximum prices established by § 1499.2 of General Maximum Price Regulation for certain commodities, services and transactions.*  
(a) The maximum prices established by § 1499.2 of the General Maximum Price Regulation for the commodities, services and transactions listed below are modified as hereinafter provided:

(10) *Sugar.* (i) The maximum price for fine granulated sugar sold at retail in the states of Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, and Delaware, shall be the higher of the following:

(a) The seller's maximum price as determined under § 1499.2, General Provisions, of the General Maximum Price Regulation;

(b) 6½¢ per pound, except that where such maximum price, when applied to the sale of a particular quantity, results in a total selling price involving a fraction of a cent, such selling price may be adjusted to the next highest cent.

(b) *Effective dates.* \* \* \*

(11) Amendment No. 10 (§ 1499.73 (a) (10)) to Supplementary Regulation No. 14 shall become effective August 31, 1942. (Pub. Law 421, 77th Cong.)

Issued this 25th day of August, 1942.

LEON HENDERSON,  
Administrator.

[F. R. Doc. 42-8320; Filed, August 25, 1942;  
12:01 p. m.]

\*Copies may be obtained from the Office of Price Administration.

<sup>1</sup> 7 F.R. 5486, 5709.

<sup>2</sup> 7 F.R. 3153, 3330, 3666, 3990, 3991, 4339, 4487, 4659, 4738, 5027, 5192, 5276, 5365, 5445, 5484, 5565, 5775, 5783, 5784, 6007, 6058, 6081, 6216.

PART 1499—COMMODITIES AND SERVICES  
[Order 30 Under § 1499.18 (b) of the General Maximum Price Regulation]

#### SUPERIOR PRODUCTS CO.

For the reasons set forth in an opinion issued simultaneously herewith, it is ordered:

§ 1499.330 *Adjustment of maximum prices for Sue Pree' Nail Polish manufactured by Superior Products Company—*  
(a) *Manufacturer.* On and after August 26, 1942, Superior Products Company, Dallas, Texas, may charge for a bottle containing 1½ oz of an ounce of Sue Pree' Nail Polish the prices charged by it during March 1942 for the original size containing 1½ oz of an ounce of the Sue Pree' Nail Polish, namely \$56 per dozen bottles.

For a period of three months after it commences to sell its reduced size of Sue Pree' Nail Polish, Superior Products Company shall mark each case with a notice or shall enclose in each case a notice as follows: "Sale of reduced size of this product at maximum prices established for any seller for original size is authorized by Office of Price Administration Order No. 30 under § 1499.18 (b) of the General Maximum Price Regulation, issued August 25, 1942."

(b) *Wholesalers and retailers.* On and after August 26, 1942 any wholesaler or retailer may charge for Superior Products Company's reduced size of Sue Pree' Nail Polish (1) the maximum prices established for such seller for Superior Products Company's original size of Sue Pree' Nail Polish or (2) if no maximum prices have been established for such seller for Superior Products Company's original size of Sue Pree' Nail Polish, the maximum prices established for such seller under section 2 of the General Maximum Price Regulation for Superior Products Company's reduced size of Sue Pree' Nail Polish.

(c) All discounts, trade practices, and practices relating to the payment of shipping charges in effect in March 1942, on the sale by Superior Products Company of Sue Pree' Nail Polish shall apply to the maximum price set forth in paragraph (a).

(d) This Order No. 30 may be revoked or amended by the Price Administrator at any time.

(e) This Order No. 30 (§ 1499.330) is hereby incorporated as a section of Supplementary Regulation No. 14, which contains modifications of maximum prices established by § 1499.2.

(f) This Order No. 30 (§ 1499.330) shall become effective August 26, 1942. (Pub. Law 421, 77th Cong.)

Issued this 25th day of August 1942.

LEON HENDERSON,  
Administrator.

[F. R. Doc. 42-8321; Filed, August 25, 1942;  
12:05 p. m.]

PART 1315—RUBBER AND PRODUCTS AND MATERIAL OF WHICH RUBBER IS A COMPONENT

[Amendment 25 to Revised Tire Rationing Regulations]<sup>1</sup>

TIRES AND TUBES, RETREADING AND RECAPPING OF TIRES, AND CAMELBACK

Section 1315.405 (b) is amended to read as follows:

*Tires and Tubes for Vehicles Eligible Under List A*

§ 1315.405 *Eligibility classification. List A.* \* \* \*

(b) A vehicle, required because of the absence of other practicable means of transportation, and used exclusively by:

(1) A regularly practicing minister of any religious faith who serves a congregation and who uses the vehicle exclusively to meet the religious needs of the locality which he regularly serves; or

(2) A religious practitioner, other than a minister, who is duly authorized by an organized religious faith to render services of a religious nature to its members and who uses the vehicle exclusively for rendering such religious services to its members in the locality which he regularly serves.

§ 1315.1199a *Effective dates of amendments.* \* \* \*

(y) Amendment No. 25 (§ 1315.405) to Revised Tire Rationing Regulations shall become effective August 31, 1942.

(Pub. Law 421, 77th Cong. 2nd Sess., Jan. 30, 1942, O.P.M. Supp. Order No. M-15c, W.P.B. Directive No. 1, Supp. Directive No. 1B, 6 F.R. 6792; 7 F.R. 121, 350, 434, 473, 562, 925, 1009, 1026)

Issued this 25th day of August 1942.

LEON HENDERSON,  
Administrator.

[F. R. Doc. 42-8328; Filed, August 25, 1942;  
4:28 p. m.]

PART 1360—MOTOR VEHICLES AND MOTOR VEHICLE EQUIPMENT

[Amendment 14 to Rationing Order 2A<sup>2</sup>]

NEW PASSENGER AUTOMOBILE RATIONING REGULATIONS

Paragraph (b) in § 1360.372 is amended to read as set forth below:

*Persons Eligible to Acquire New Passenger Automobiles by Transfer With Certificates*

§ 1360.372 *Eligibility classification.* \* \* \*

(b) (1) Regularly practicing ministers of any religious faith who serve a congregation and who require transportation to meet the religious needs of the local-

<sup>1</sup> 7 F.R. 1027, 1089, 2106, 2167, 2541, 2633.

<sup>2</sup> 7 F.R. 1542, 1647, 1758, 2103, 2242, 2305, 2903, 3097, 3482, 4343, 5484, 6049.

ity which they regularly serve if the automobile will be used exclusively for that purpose; or

(2) Religious practitioners, other than ministers, who are duly authorized by an organized religious faith to render services of a religious nature to members of such faith, and who require transportation to render such religious services to members of such faith in the locality which they regularly serve if the automobile will be used exclusively for that purpose.

#### Effective Dates

§ 1360.442 *Effective dates of amendment.*

(n) Amendment No. 14 (§ 1360.372) to Rationing Order No. 2A shall become effective August 31, 1942.

(Pub. Law 421, 77th Cong., W.P.B. Dir. No. 1, Supp. Dir. No. 1A, 7 F.R. 562, 698, 1493)

Issued this 25th day of August 1942.

LEON HENDERSON,  
Administrator.

[F. R. Doc. 42-8329; Filed, August 25, 1942;  
4:28 p. m.]

#### PART 1394—RATIONING OF FUEL AND FUEL PRODUCTS

[Amendment 7 to Ration Order 5A<sup>1</sup>]

##### GASOLINE RATIONING REGULATIONS

Paragraph (g) of § 1394.506 is hereby amended; and a new paragraph (g) is added to § 1394.1902; as set forth below:

#### Supplemental Rations

§ 1394.506 *Preferred mileage.*

(g) By a regularly practicing minister of any religious faith who serves a congregation, for meeting the religious needs of the locality which he regularly serves; or by a religious practitioner, other than a minister who is duly authorized by an organized religious faith to render services of a religious nature to members of such faith, for rendering such religious services to members of such faith in the locality which he regularly serves.

#### Effective Date

§ 1394.1902 *Effective dates of amendments.*

(h) Amendment No. 7 (§ 1394.506 (g)) to Ration Order No. 5A shall become effective August 31, 1942. (Pub., No. 671, 76th Cong., 3d Sess., as amended by Pub., No. 89, 77th Cong., 1st Sess., and by Pub., No. 507, 77th Cong., 2d Sess., Pub., No. 421, 77th Cong., 2d Sess., W.P.B. Directive No. 1, Supp. Directive No. 1 H, 7 F.R. 562, 3478, 3877, 5216)

Issued this 25th day of August 1942.

LEON HENDERSON,  
Administrator.

[F. R. Doc. 42-8330; Filed, August 25, 1942;  
4:27 p. m.]

<sup>1</sup> 7 F.R. 5225, 5362, 5426, 5606, 5566, 5666, 5674, 6276.

#### PART 1499—COMMODITIES AND SERVICES

[Amendment 14 to Supplementary Regulation 14<sup>1</sup> to General Maximum Price Regulation<sup>2</sup>]

##### STORAGE AND WAREHOUSING OF COTTON

A statement of the considerations involved in the issuance of this amendment has been issued simultaneously herewith and filed with the Division of the Federal Register.

A new subparagraph (14) is added to paragraph (a) of § 1499.73 as set forth below:

§ 1499.73 *Modification of maximum prices established by § 1499.2 of General Maximum Price Regulation for certain commodities, services and transactions.* (a) The maximum prices established by § 1499.2 of the General Maximum Price Regulation for the commodities, services, and transactions listed below are modified as hereinafter provided:

(14) *Storage and warehousing of cotton and services incident thereto—*(i) *Maximum prices.* Except as provided in subdivision (ii) below, maximum prices for storage and handling in and out of warehouse of cotton received after the date of this amendment shall be either:

(a) Maximum prices computed under section 2 of the General Maximum Price Regulation, or

(b) (1) for handling of cotton in and out of warehouse, 35¢ per bale;

(2) for storage: cotton stored in warehouses operating compress facilities, 17½¢ per bale per month, or fraction thereof, for the first six months of storage and 15¢ per bale per month, or fraction thereof, thereafter; cotton stored in warehouses not operating compress facilities, 20¢ per bale per month, or fraction thereof, for the first six months of storage and 17½¢ per bale per month, or fraction thereof, thereafter.

(ii) The maximum prices set forth in subdivision (i) (b) above, shall not apply, and section 2 of the General Maximum Price Regulation shall apply, to the handling in and out of warehouse and storage of cotton owned by the United States Government or any agency thereof.

(iii) Every person engaged in the storage and warehousing of cotton other than United States Government owned cotton, must elect to observe as his maximum prices for storage and handling in and out of the warehouse either maximum prices determined in accordance with subdivision (i) (a) above or the maximum prices set forth in subdivision (i) (b) above, and must advise the appropriate field office of the Office of Price Administration of such election on the form set forth in Appendix A, attached hereto and made a part hereof, within a period of 30 days from the date of this order,

\*Copies may be obtained from the Office of Price Administration.

<sup>1</sup> 7 F.R. 5486.

<sup>2</sup> 7 F.R. 3153, 3330, 3666, 3990, 3991, 4339, 4487, 4659, 4738, 5027, 5192, 5276, 5365, 5445, 5484, 5565.

(b) Effective dates \* \* \*

(15) Amendment No. 14 (§ 1499.73 (a) (14)) to Supplementary Regulation No. 14 shall become effective August 25, 1942. (Pub. Law 421, 77th Cong.)

Issued this 25th day of August 1942.

LEON HENDERSON,  
Administrator.

#### Appendix "A"

Office of Price Administration  
----- (City)  
----- (State)

Pursuant to the provisions of Amendment 14 to Supplementary Regulation 14 to the General Maximum Price Regulation, I hereby elect:

( ) (1) to observe as maxima for the handling in and out of warehouse and storage of cotton, prices named in paragraph (1) (b) of such amendment;

( ) (2) to observe as maxima for the handling in and out of warehouse and storage of cotton, maximum prices as determined under the provisions of Section 2 of the General Maximum Price Regulation. These prices are as follows:

For handling in and out of warehouse:

For Storage:

(Signed)

[F. R. Doc. 42-8331; Filed, August 25, 1942;  
4:27 p. m.]

#### Chapter XVII—Office of Civilian Defense

##### PART 1902—INSIGNIA

[Regulations No. 2; Amendment 3 to Supplementary Order 2]

##### SPECIFICATIONS FOR AND MANNER OF WEAR AND USE OF OFFICIAL ARTICLES

By virtue of the authority vested in me by Executive Order No. 8757 dated May 20, 1941, as amended by Executive Order No. 9134 dated April 15, 1942, and by Executive Order No. 9088 dated March 6, 1942, and pursuant to § 1902.2 of this chapter (section 2 of Office of Civilian Defense Regulations No. 2), the Director of Civilian Defense hereby amends §§ 1902.51 to 1902.57 of this chapter (Supplementary Order No. 2 to Office of Civilian Defense Regulations No. 2) by adding §§ 1902.54 (e) and 1902.54 (f), which designate additional official articles for the United States Citizens Service Corps, by changing § 1902.57 to § 1902.59, and by adding new § 1902.57 and § 1902.58, which designate official articles for the Forest Fire Fighters Service and the Civilian Evacuation Service, as follows:

AUTHORITY: § 1902.2 of Chapter XVII under E.O. 8757, 6 F.R. 2517; E.O. 9088, 7 F.R. 1775; E.O. 9134, 7 F.R. 2887.

§ 1902.54 (e) *Collar and cap emblems for uniforms (Service Corps).* The prescribed insignia may be used as embroidered or woven emblems, 1¼ inches in diameter.

§ 1902.54 (f) *Identification cards* (Service Corps). The prescribed insignie may be used on identification cards.

§ 1902.57 *Official articles for the Forest Fire Fighters Service*. The following articles are prescribed as official articles for wear and use by members of the Forest Fire Fighters Service in accordance with all rules, regulations, orders or instructions issued by the Director:

(a) *Arm bands and brassards*. The prescribed insignie may be used on arm bands and brassards. Arm bands and brassards shall be 10 to 18 inches long, and 4 inches wide. The width may be 4½ inches when necessary to accommodate appropriate lettering where such lettering is permitted. The prescribed insignie shall be 3½ inches in diameter and shall be placed in the center of the arm band or brassard.

(b) *Sleeve insignie for uniforms*. The prescribed insignie may be used as a sleeve insignie, embroidered or woven with stitched or rolled edges. The sleeve insignie shall be 2¼ inches in diameter. The sleeve insignie shall be worn on the left sleeve, 1 inch below the shoulder seam.

(c) *Collar and cap emblems for uniforms*. The prescribed insignie may be used as embroidered or woven emblems, 1¼ inches in diameter.

(d) *Lapel pins or buttons*. The prescribed insignie may be used on lapel pins or buttons ½ inch in diameter.

(e) *Automobile stickers and plates*. The prescribed insignie may be included on automobile stickers and plates. Automobile stickers and plates shall be in a circular shape, from 4 to 12 inches in diameter, or in a rectangular shape no larger than 6 inches by 12 inches. Automobile stickers and plates may be placed on any truck, automobile or other vehicle, and may be used only subject to compliance with appropriate State and local laws, ordinances, or regulations applicable to windshield or vehicle stickers.

(f) *Identification cards*. The prescribed insignie may be used on identification cards.

(g) *Certificates of membership*. The prescribed insignie may be used on certificates of membership.

§ 1902.58 *Official articles for the Civilian Evacuation Service*. The following articles are prescribed as official articles for wear and use by members of the Civilian Evacuation Service in accordance with all rules, regulations, orders or instructions issued by the Director.

(a) *Sleeve insignie for uniforms*. The prescribed insignie may be used as a sleeve insignie, embroidered or woven with stitched or rolled edges. The sleeve insignie shall be 2¼ inches in diameter. The sleeve insignie shall be worn on the left sleeve, 1 inch below the shoulder seam.

(b) *Collar and cap emblems for uniforms*. The prescribed insignie may be used as embroidered or woven emblems, 1¼ inches in diameter.

(c) *Lapel pins or buttons*. The prescribed insignie may be used on lapel pins or buttons ½ inch in diameter.

(d) *Badges*. The prescribed insignie, three inches in diameter, may be used on plastic badges, on non-critical substitute therefor. Such badges should be worn on the upper left side of the garment.

(e) *Automobile stickers and plates*. The prescribed insignie may be included on automobile stickers and plates. Automobile stickers and plates shall be in a circular shape, from 4 to 12 inches in diameter, or in a rectangular shape no larger than 6 inches by 12 inches. Automobile stickers and plates may be placed on any truck, automobile or other vehicle, and may be used only subject to compliance with appropriate state and local laws, ordinances, or regulations applicable to windshield or vehicle stickers.

(f) *Identification cards*. The prescribed insignie may be used on identification cards.

[SEAL] JAMES M. LANDIS,  
Director of Civilian Defense.  
AUGUST 25, 1942.

[F. R. Doc. 42-8327; Filed, August 25, 1942;  
4:05 p. m.]

## TITLE 33—NAVIGATION AND NAVIGABLE WATERS

### Chapter II—Corps of Engineers, War Department

#### PART 203—BRIDGE REGULATIONS

##### TRENT RIVER, N. C.

Pursuant to the provisions of section 5 of the River and Harbor Act of August 18, 1894 (28 Stat. 362; 33 U.S.C. 499), the provisions of § 203.354 of Bridge Regulations are extended to include all drawbridges across Trent River above the Atlantic Coast Line Railroad bridge at Pollocksville, North Carolina, the title and regulations being amended as follows:

§ 203.354 *Trent River, N. C.; Atlantic Coast Line Railroad Company bridge at Pollocksville, N. C., and all drawbridges upstream thereof*. (a) The owners of, or agencies controlling, the bridges will not be required to keep draw tenders in constant attendance at the above-named bridges.

(b) Whenever a vessel, unable to pass under the closed bridges, desires to pass through the draw, at least 24 hours' advance notice of the time the opening is required shall be given to the authorized representatives of, or agencies controlling, the bridges.

(c) Upon receipt of such notice, the authorized representative of, or agency controlling, the bridge, in compliance therewith, shall arrange for the prompt opening of the draw at the time specified in the notice for the passage of the vessel.

(d) The owners of, or agencies controlling, the bridges shall keep conspicuously posted on both the upstream and downstream sides of the bridges, in such manner that it can easily be read at any time, a copy of these regulations together with a notice stating exactly how the

17 F.R. 1089.

representative specified in paragraph (b) may be reached.

(e) The operating machinery of the draws shall be maintained in a serviceable condition, and the draws opened and closed frequently enough to make certain that the machinery is in proper order for satisfactory operation. (Sec. 5, 28 Stat. 362; 33 U.S.C. 499) [Regs., Aug. 17, 1942 (CE 6371 (No. Carolina-Trent R.-Pollocksville)—SPEON)]

[SEAL]

J. A. ULIO,  
Major General,  
The Adjutant General.

[F. R. Doc. 42-8332; Filed, August 26, 1942;  
9:24 a. m.]

## TITLE 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

### Chapter I—Veterans' Administration

#### PART 5—ADJUDICATION: DEPENDENTS' CLAIMS

EVIDENCE REQUIRED IN ESTABLISHING PROOF  
OF BIRTH, RELATIONSHIP, MARRIAGE, DEATH  
AND DEPENDENCY

Revision of §§ 5.2518 and 5.2582.

§ 5.2518 *Unexplained absence for seven years*. In the event evidence as provided in § 2.1055 cannot be furnished, if satisfactory evidence is produced establishing the fact of the continued and unexplained absence of any individual from his home and family for a period of seven years, and that after diligent search no evidence of his existence after date of disappearance has been found or otherwise received, the death of such absentee as of the date of the expiration of such period may be considered as sufficiently proved. No State law providing for presumption of death shall be applicable to claims for benefits under laws administered by the Veterans' Administration: *Provided*, That, except in a suit brought pursuant to the provisions of section 19 of the World War Veterans Act, 1924, as amended, or section 617 of the National Service Life Insurance Act of 1940, as amended, the finding of death made by the Administrator of Veterans Affairs shall be final and conclusive. (See Public No. 591, 77th Congress (Act of June 5, 1942); also Act of March 13, 1896.)

A determination of whether the evidence furnished is satisfactory will be made by those officials specifically authorized by the Administrator of Veterans Affairs in the same manner as is provided in § 2.1055 (g) for a finding of fact of death. (August 31, 1942) (Public No. 591, 77th Congress)

#### EFFECTIVE DATES OF INCREASE OF DEATH PENSION OR COMPENSATION

§ 5.2582 *Public No. 2 and sections 28 and 31, Title III, Public No. 141, 73d Congress, section 3, Public No. 304, 75th Congress, section 5, Public No. 198, 76th Congress, or Public No. 242, and No. 359, 77th Congress*. The effective date of an award of increased pension or compensation payable under Public No. 2,

73d Congress, sections 28 and 31, Title III, Public No. 141, 73d Congress, section 3, Public No. 304, 75th Congress, section 5, Public No. 198, 76th Congress, Public No. 242, 77th Congress, or Public No. 359, 77th Congress, shall be fixed in accordance with the facts found, except that:

(f) Awards of service-connected benefits for periods beginning on or after September 1, 1941, to widows or parents of veterans of the World War, Spanish-American War, Philippine Insurrection or Boxer Rebellion, or of veterans whose death resulted from service as comprehended by paragraph I (c) of § 35.012.

(1) On and after September 1, 1941, the rates provided by section 5, Public No. 198, 76th Congress, are payable to the widows and parents of veterans of the World War, the Spanish-American War, Philippine Insurrection and Boxer Rebellion and of veterans whose deaths resulted from service as comprehended by paragraph I (c) of § 35.012, subject to the provisions of subparagraphs (2), (3), and (4) of this paragraph.

(2) During the period beginning September 1, 1941, and ending July 31, 1942, the rates payable under section 5, Public No. 198, shall not be payable while the combined monthly rates of compensation or pension and of yearly renewable term, automatic insurance or National Service Life Insurance payable, equal or exceed the rates prescribed in § 5.2624.

(3) If during the period beginning September 1, 1941, and ending July 31, 1942, the combined monthly rates of compensation or pension payable under the laws in effect prior to August 16, 1937, and insurance do not equal or exceed the rates prescribed in section 5 of Public No. 198, 76th Congress, the amount of compensation or pension payable during such period while the insurance is payable shall be that which equals the difference between the amount of the monthly instalment of insurance and the rate of compensation or pension otherwise payable under section 5, Public No. 198, 76th Congress, subject to the increase at the full rate prescribed therein from the date following the ending date of the insurance award, or August 1, 1942, whichever is the earlier.

(4) On and after August 1, 1942 in no event shall monthly payments of yearly renewable term or automatic, or National Service Life Insurance serve to reduce the amounts of compensation or pension otherwise payable under existing compensation or pension laws. (Public No. 667, 77th Congress)

(g) Awards of service-connected benefits for periods beginning on or after December 19, 1941, to widows, children, or parents of veterans whose death resulted from service since March 4, 1861, as comprehended by paragraph I (c) of § 35.012 as amended by the Act of December 19, 1941 (Public No. 359, 77th Congress).

(1) On and after December 19, 1941, the rates provided by section 5, Public No. 198, 76th Congress, as amended, are payable to the widows, children, and parents of veterans whose death resulted from service since March 4, 1861, as

comprehended by paragraph I (c) of § 35.012 as amended by Public No. 359, 77th Congress (Act of December 19, 1941) subject to the provisions of subparagraphs (2) and (3) of this paragraph and § 5.2582 (f) (4).

(2) During the period beginning December 19, 1941 and ending July 31, 1942, the rates payable under section 5, Public No. 198, 76th Congress, as amended, shall not be payable while the combined monthly rates of compensation or pension and of yearly renewable term, or automatic insurance, or National Service Life Insurance payable, equal or exceed the rates prescribed in § 5.2624.

(3) If during the period beginning December 19, 1941, and ending July 31, 1942, the combined monthly rates of compensation or pension and insurance do not equal or exceed the rates prescribed in section 5 of Public No. 198, 76th Congress, as amended, the amount of compensation or pension payable during such period while the insurance is payable shall be that which equals the difference between the amount of the monthly instalment of insurance and the rate of compensation or pension otherwise payable under section 5, Public No. 198, 76th Congress, as amended, subject to the increase at the full rate prescribed therein from the date following the ending date of the insurance award, or August 1, 1942, whichever is the earlier. In no event, however, will the rates payable be less than those authorized by paragraph I of § 35.011. (August 31, 1942) (Public No. 359, 77th Congress)

[SEAL]

FRANK T. HINES,  
Administrator.

[F. R. Doc. 42-8292; Filed, August 25, 1942;  
11:36 a. m.]

## TITLE 46—SHIPPING

### Chapter II—Coast Guard: Inspection and Navigation

#### PART 136—"A" MARINE INVESTIGATION BOARD RULES

##### TEMPORARY WARTIME RULES GOVERNING INVESTIGATIONS OF ACCIDENTS AND CASUALTIES

By virtue of the authority vested in me by section 4450, R.S., as amended (46 U.S.C. 239), Executive Order No. 8976, dated December 12, 1941 (7 F.R. 6441), and Executive Order No. 9083, dated February 28, 1942 (7 F.R. 1609), Parts 136 and 137 are suspended during such period of time as Executive Order No. 9083, dated February 28, 1942, remains in effect, and the following temporary war time rules and regulations are prescribed, effective September 15, 1942:

*Marine Casualty or Accident: Temporary War Time Rules and Regulations to Govern Investigations and Other Proceedings Under R.S. 4450, as Amended (46 U.S.C. 239)*

Sec.

136.101 Scope of rules.

136.102 Definitions.

136.103 Notice of casualty and voyage records.

Sec.

136.104 Preliminary investigations.

136.105 Board investigations.

136.106 Suspension or revocation proceedings.

136.107 Appeal.

136.108 Witnesses and witness fees.

136.109 Records confidential.

136.110 Evidence of criminal liability.

AUTHORITY: §§ 136.101 to 136.110, inclusive, issued under R.S. 4450, as amended, sec. 4 (a), (j), 49 Stat. 1381, 50 Stat. 544; 46 U.S.C. 239 (a), (j); Executive Order No. 8976, dated December 12, 1941 (7 F.R. 6441), and Executive Order No. 9083, dated February 28, 1942 (7 F.R. 1609).

§ 136.101 *Scope of rules.* (a) The following rules and regulations shall, during such period of time as Executive Order No. 9083, dated February 28, 1942, remains in effect, govern the conduct of investigations and other proceedings relating to: (1) marine casualties and accidents resulting from enemy action, and (2) acts in violation of sections 170, 214, 215, 222, 224, 224a, 226, 228-234, 239, 240, 361, 362, 364, 371-373, 375-382, 384, 385, 391, 391a, 392, 393, 399, 400, 402-416, 435-440, 451-453, 460-463, 464, 467, 470-481, 482, or 489-498 of title 46 of the United States Code or of any of the regulations issued thereunder, and acts of incompetency or misconduct committed by any licensed officer or holder of a certificate of service, whether or not such acts are committed in connection with any marine casualty or accident.

(b) Investigations and other proceedings relating to marine casualties and accidents resulting from enemy action shall be governed by special procedures prescribed by the Commandant.

§ 136.102 *Definitions.* When used in this part:

(1) The term "marine casualty or accident" shall mean any casualty or accident involving any vessel if such casualty or accident occurs within the navigable waters of the United States, its territories or possessions, and any casualty or accident involving an American vessel, or a vessel owned by any person domiciled in the United States, wherever such casualty or accident may occur.

(2) The term "party in interest" shall mean any person whom the board or officer or employee of the Coast Guard in charge of an investigation or other proceeding shall find to have a direct interest in the subject matter thereof and shall include the owner, charterer, or agent of such owner or charterer, of any vessel involved therein, licensed or certificated personnel, officers or employees of the Government and any other person whose conduct is under investigation or whose interests may be affected thereby.

(3) The term "Commandant" shall mean the officer in charge of all activities of the United States Coast Guard.

(4) The term "Coast Guard District" shall mean the geographical area over which a District Coast Guard Officer has jurisdiction for the purpose of administering the activities and functions of the Coast Guard.

(5) The term "District Coast Guard Officer" shall mean the officer in charge of a Coast Guard District.

§ 136.103 *Notice of casualty and voyage records.* (a) Whenever a marine casualty or accident occurs, the master, owner, charterer, or agent of the vessel or vessels involved shall, as soon as possible give notice thereof to the nearest local or district office of the United States Coast Guard or to Coast Guard Headquarters, Washington, D. C. Notices received in local or district offices shall be transmitted to Headquarters immediately. Such notice shall name the vessel involved and the owner or agent thereof, and shall state the nature and cause of the casualty or accident, the locality in which it occurred, and the extent and nature of injuries to persons and damage to property resulting therefrom. Such notice shall be in addition to any other notice required to be given by law or regulation. Any officer or employee of the United States or any other person having material knowledge or information concerning a marine casualty or accident shall immediately bring such information to the attention of the United States Coast Guard. Communications in regard to casualties shall be handled with caution in order that information with respect thereto may not fall into the hands of the enemy.

(b) The owner, charterer, agent, master or other licensed officer of any vessel involved in a marine casualty or accident shall retain the voyage records of the vessel, including both rough and smooth deck and engine room logs, bell books, navigation charts, navigators' work books, compass deviation cards, gyro compass records, stowage plans, records of draft, aids to mariners, radiograms sent and received, and the radio log, and crews' and passengers' lists, which upon request shall be produced for inspection of any duly authorized officer or employee of the United States Coast Guard.

§ 136.104 *Preliminary investigations.* (a) As soon as possible after receiving notice of a marine casualty, other than a casualty resulting from enemy action, the Merchant Marine Inspector in Charge in whose jurisdiction the casualty occurs, or in cases involving casualties occurring on the high seas, to whose jurisdiction the personnel of the vessel or vessels involved first return shall cause a preliminary investigation of such casualty to be made.

(b) The Merchant Marine Inspector in Charge and any other officers and employees who may be authorized by him to conduct such investigations shall have the power to administer oaths, summon witnesses, require persons having knowledge of the subject matter of the investigation to answer questionnaires, and require the production of relevant books, papers, documents and other records.

(c) At the conclusion of the investigation, the Merchant Marine Inspector in Charge shall submit to Headquarters, through the District Coast Guard Officer, a full and complete report of all the facts and circumstances relating to the casualty or accident together with such recommendations for subsequent action as he deems proper.

(d) Whenever, in any case not involving a marine casualty or accident, a complaint is made against a licensed officer or holder of a certificate of service or efficiency charging him with any act of incompetency or misconduct while acting under the authority of his license or certificate, or with any act in violation of the provisions of sections 170, 214, 215, 222, 224, 224a, 226, 228-234, 239, 240, 361, 362, 364, 371-373, 375-382, 384, 385, 391, 391a, 392, 393, 399, 400, 402-416, 435-440, 451-453, 460-463, 464, 467, 470-481, 482, or 489-498 of title 46 of the United States Code or of any regulations issued thereunder, the Merchant Marine Inspector in Charge to whom such complaint is made or referred shall make such investigation of such complaint as he may deem necessary to determine whether there is a reasonable basis for such charge.

§ 136.105 *Board investigations.* (a) If as a result of preliminary investigation of any casualty, it appears to the Commandant that the conduct of a further investigation thereof would tend to promote safety at sea and would not be inimical to the public interest, the Commandant will designate an appropriate board to conduct such investigation forthwith. Any board so designated shall have power to administer oaths, summon witnesses, require persons having knowledge of the subject matter of the investigation to answer questionnaires, and require the production of relevant books, papers, documents and other records.

(b) Reasonable notice of the time and place of the board investigation shall be given to any person whose conduct is under investigation and any other party in interest, and all parties in interest shall be allowed to be represented by counsel, to cross-examine witnesses and to call witnesses in their own behalf. A complete record of the proceedings of a board investigation shall be kept and at the conclusion thereof the board shall make a report containing recommendations and findings to the Commandant.

(c) If the Commandant is of the opinion that the public interest would be served thereby, he may make public a statement of the probable cause or causes of the casualty.

§ 136.106 *Suspension or revocation proceedings.* (a) Suspension and revocation proceedings shall be instituted by the Merchant Marine Inspector in Charge in any case in which it appears to him, as a result of any investigation made hereunder, or otherwise, that there are reasonable grounds to believe that a licensed officer or holder of a certificate of service is incompetent, or has been guilty of misbehavior, negligence, or unskillfulness or has endangered life or has wilfully violated any of the provisions of sections 170, 214, 215, 222, 224, 224a, 226, 228-234, 239, 240, 361, 362, 364, 371-373, 375-382, 384, 385, 391, 391a, 392, 393, 399, 400, 402-416, 435-440, 451-452, 460-463, 464, 467, 470-481, 482, or 489-498 of title 46 of the United States Code or any of the regulations issued thereunder. To institute such proceedings the Merchant

Marine Inspector in Charge shall prepare charges and specifications against such person and refer such charges and specifications to one of the district hearing officers.

(b) The district hearing officers shall be officers or employees designated by the Commandment to act in such capacity: *Provided*, That the inspector who conducted the investigation may act as hearing officer in any case in which the person charged voluntarily consents thereto in writing.

(c) The hearing officer shall fix the time and place of hearing and shall make all arrangements for the conduct thereof. He shall cause to be served upon the accused either by personal service or registered mail at a time sufficiently in advance of the time set for the hearing to give the accused a reasonable opportunity to prepare his defense, a notice of the time and place of hearing and a copy of the charges and specifications. The notice shall advise the accused that he may waive hearing and reply to the charge in writing if he so desires. Where personal service is made upon the accused, the officer or employee making service shall exhibit the original of the notice to the accused, read it to the accused if he cannot read, and give him a copy thereof and of the charges and specification, and shall make return, under oath, in accordance with the form on the notice. When service is made by registered mail a return receipt shall be requested.

(d) The hearing officer shall open the hearing at the time and place specified in the notice, shall administer all necessary oaths, shall cause a complete record of the proceedings to be kept, and shall regulate and conduct the hearing in such a manner as to bring out all the relevant and material facts, and insure the accused a fair and impartial trial on the charges made against him. When an affidavit or other *ex parte* testimony is admitted in evidence the record shall show why the person whose testimony is so reduced to writing did not appear in person. The accused shall have the right to appear in person, or by counsel, and shall be permitted to call, examine and cross-examine witnesses and to introduce relevant documentary evidence into the record.

(e) The hearing officer shall have power to issue summons requiring the attendance of witnesses or the production of records and other documents.

(f) In any case in which the accused, after having been duly served with notice of a hearing fails to appear, a notation to that effect shall be made in the record. If the accused elects to waive hearing and replies to the charges by letter, such letter shall be made a part of the record.

(g) At the conclusion of the hearing, the hearing officer shall consider the record and shall prepare an appropriate decision containing his findings and conclusions as to the guilt or innocence of the accused, and in the event that he finds the accused guilty shall issue and cause to be served upon the accused an

appropriate order of suspension or revocation. Such order shall, in the absence of an appeal as hereinafter authorized, be effective 30 days after service upon the accused.

§ 136.107 *Appeal.* (a) Any person whose license or certificate of service or efficiency is revoked or suspended may, within 30 days after being notified of the decision of the hearing officer take an appeal to the District Coast Guard Officer of the district in which the hearing was held. The appeal shall take effect when received at the office of the proper District Coast Guard Officer.

Every appeal shall be typewritten and shall set forth as briefly as possible the name of the accused, the nature of the charge, the name of the hearing officer who made the decision, the substance of the decision appealed from and a separate statement of each ground for such appeal. The appeal shall be verified by the appellant or his counsel.

(b) The District Coast Guard Officer on appeal may affirm, reverse, or modify the decision of the hearing officer or remand the case for further hearing. The District Coast Guard Officer will not consider evidence which is not a part of the record of the hearing and will not consider any ground of appeal which is not specified by the accused. The decision of the District Coast Guard Officer on appeal will be in writing and will contain his findings.

§ 136.108 *Witnesses and witness fees.* (a) No officer, seaman, or other employee of any public vessel controlled by the Army or Navy (not including the Coast Guard) of the United States, or its allies, shall be summoned or otherwise required to appear as a witness in connection with any investigation or other proceeding without the consent of the Department or Government concerned.

(b) Any attempt to coerce or induce any witness to testify falsely in connection with a shipping casualty, or to induce any witness to leave the jurisdiction of the United States, is punishable by a fine of \$5,000.00 or imprisonment for one year, or both such fine and imprisonment.

(c) Witnesses summoned to attend any investigation or other proceeding conducted hereunder shall upon application be paid the same fees as are paid to witnesses who appear before the district courts of the United States, and witnesses whose depositions are taken and persons who take depositions shall upon application be paid the same fees as are paid for like services in the District Courts of the United States.

§ 136.109 *Records confidential.* (a) All reports of investigations and records of proceedings and all information relating thereto, shall be treated as confidential and shall not be open to public inspection or otherwise disclosed except as may be authorized by the Commandant.

(b) No officer or employee of the Coast Guard shall, without the prior approval of the Commandant, give any testimony

with respect to any investigation or other proceeding in any suit, action, or other proceeding except proceedings instituted by a duly authorized public officer under the laws and regulations relating to navigation.

§ 136.110 *Evidence of criminal liability.* If as a result of any investigation or other proceeding conducted hereunder, evidence of criminal liability on the part of any licensed officer or holder of a certificate of service or any other person is found, such evidence shall be referred to the Department of Justice.

R. R. WAESCHE,  
Commandant.

AUGUST 26, 1942.

[F. R. Doc. 42-8344; Filed, August 26, 1942;  
11:38 a. m.]

## Notices

### DEPARTMENT OF THE INTERIOR.

#### General Land Office.

#### WISCONSIN

#### FIVE-ACRE TRACT CLASSIFICATION NO. 22

#### ORDER REGARDING LEASING

AUGUST 18, 1942.

On August 6, 1942, the vacant public lands in the following-described areas in Wisconsin were classified and opened by the Secretary of the Interior under the five-acre act of June 1, 1938 (52 Stat. 609; 43 U.S.C. 682a), for leasing as home, camp, cabin, recreational, health, and convalescent sites, but not as business sites:

#### WISCONSIN No. 2

#### FOURTH PRINCIPAL MERIDIAN

T. 37 N., R. 8 E., sec. 33, lots 8, 11, and 14; lots 1, 6, 7, 14, 15, 16, 17, 18, and 19 of Unity Point Subdivision in lots 9 and 13 of the section, as shown on the official supplemental plat of survey of section 33, accepted June 19, 1928, and filed January 25, 1929.

Lot 13 of the Unity Point Subdivision, containing 0.45 acre, in lot 13 of the section, as shown on the above-mentioned plat, also was classified and opened for leasing under the act but only for community use and development upon proper application.

Lots 1, 6, 7, 14, 15, 16, 17, 18, and 19 of Unity Point Subdivision in lots 9 and 13 of section will be leased in units according to the supplemental plat of survey referred to above, ranging in area from 0.17 to 0.61 acre.

Lots 8 and 11 of the section, containing 8.71 and 29.92 acres, respectively, will be leased in units of not more than about one-third to two-thirds of an acre, each with approximately 100-foot lake frontage.

Lot 14 of the section, containing 5.49 acres, will be leased as a single unit at the present time. An application under the act has been filed for this tract.

On the lands to be leased for individual use, the lessee will be required to

construct a substantial dwelling not less than \$300 in value.

The lands involved are in the central part of Oneida County, approximately five miles northwest of the town of Rhinelander, Wisconsin, from which they are accessible via a United States highway and a county road, the latter crossing part of the lands. The lots described above in the subdivided portions of Unity Point in lots 9 and 13 of the section border part on Flanner Lake and part on Velvet Lake. Lot 8 of the section borders on Flanner Lake, and lot 11 part on that lake and part on Dumb Bell Lake.

The portions of the lands described not covered by any application under the five-acre act are subject to application for lease under that act, based on the above-mentioned classification, by any qualified persons, in accordance with the regulations issued pursuant to the act, which are contained in Circular 1470a. Applications under the act should be on the prescribed form. Copies of the circular and application form may be obtained by addressing the Commissioner, General Land Office, Washington, D. C., where all applications must be filed.

FRED W. JOHNSON,  
Commissioner.

[F. R. Doc. 42-8333; Filed, August 26, 1942;  
9:25 a. m.]

[Public Land Order 32]

#### ALASKA

#### WITHDRAWING PUBLIC LANDS IN AID OF DEFINITE LOCATION AND CONSTRUCTION OF THE TRANS-CANADIAN ALASKAN RAILWAY

By virtue of the authority vested in the President and pursuant to Executive Order No. 9146<sup>1</sup> of April 24, 1942, it is ordered as follows:

The public lands in the following-described area are hereby withdrawn, subject to valid existing rights, from all forms of appropriation under the public land laws, including the mining laws, in aid of definite location and construction of the Trans-Canadian Alaskan Railway:

#### TANANA VALLEY AREA, ALASKA; KOBE TO RICHARDSON HIGHWAY

A strip of land 10 miles wide, 5 miles on each side of the center line shown on the map dated July 2, 1942, No. 1924965, on file in the General Land Office, described as follows:

Beginning at Kobe, on the Alaska Railroad, thence east approximately 66 miles to the 147th meridian of longitude; thence S. 70° E., approximately 40 miles to the Richardson Highway.

The area described, including both public and non-public lands, aggregates approximately 680,000 acres.

ABE FORTAS,

Acting Secretary of the Interior.

AUGUST 18, 1942.

[F. R. Doc. 42-8334; Filed, August 26, 1942;  
9:26 a. m.]

<sup>1</sup> 7 F.R. 3067.

## DEPARTMENT OF AGRICULTURE.

## Farm Security Administration.

## ARKANSAS—OKLAHOMA—OREGON

## DESIGNATION OF COUNTIES FOR LOANS

Designation of localities in counties in which loans, pursuant to Title I of the Bankhead-Jones Farm Tenant Act, may be made.

In accordance with the rules and regulations promulgated by the Secretary of Agriculture on July 1, 1941, loans made in the counties mentioned herein, under Title I of the Bankhead-Jones Farm Tenant Act, may be made within the localities herein described and designated. The value of the average farm unit of thirty acres and more in each of these localities has been determined in accordance with the provisions of the said rules and regulations. A description of the localities and the determination of value for each follow:

## REGION VI—ARKANSAS

*Van Buren County:* Locality I—Consisting of the townships of Culpepper, Choctaw, Bradley, Barnett, Cargile, Cadron, Sulphur Springs, Red River, Union, Griggs, Craig, Liberty, and Davis; \$1,334.

Locality II—Consisting of the townships of Archey Valley, Wheeler, Grove, White Oak, Hartsugg, Washington, Linn Creek, Holly, Cleveland, and Mountain; \$820.

## REGION VIII—OKLAHOMA

*Atoka County:* Locality I—Consisting of Bentley township; \$914.

Locality II—Consisting of Caney township and Caney town; \$1,355.

Locality III—Consisting of Farris township; \$1,022.

Locality IV—Consisting of Lewis township and Atoka city; \$1,728.

Locality V—Consisting of Stringtown township and Stringtown town; \$1,795.

Locality VI—Consisting of Wilson township; \$1,900.

## REGION XI—OREGON

*Coos County:* Locality I—Consisting of the precincts of Coos River, Fairview, Cunningham, Fat Elk, Gravelford, Lee, Coquille North, Coquille Southwest #1, Coquille Southeast #1, Riverton, Coquille Southeast #2, Parkersburg, Norway, Catching Creek, Myrtle Point North, Myrtle Point South, Broadbent, Catching Slough, and Arago; \$8,410.

Locality II—Consisting of the precincts of Dora, South Powers, Bridge, and North Powers; \$3,752.

Locality III—Consisting of the precincts of Lakeside, Templeton, North Slough, North Bayside, Allegany, Marshfield Southwest, Empire, North Bend West, North Bend Central #1, North Bend Central #2, North Bend South, Pony Slough, North Bend North, Eastside North, Eastside South, Marshfield North #1, Marshfield North #2, Marshfield Central #'s 1 and 2, Marshfield South, Marshfield Southeast, South Slough, Englewood, Bunker Hill, Ten Mile, Sumner, Coos City, Coaledo,

Beaver Hill, Bullards, West Bandon, East Bandon, Millington Two Mile, Marshfield South #3, and Four Mile; \$5,340.

The purchase price limits previously established for the counties above-mentioned are hereby cancelled.

Approved: August 24, 1942.

[SEAL]

C. B. BALDWIN,  
Administrator.

[F. R. Doc. 42-8340; Filed, August 26, 1942;  
11:23 a. m.]

## CIVIL AERONAUTICS BOARD.

[Docket No. SA-71]

## INVESTIGATION OF ACCIDENT OCCURRING IN MARYLAND

## NOTICE OF HEARING

In the matter of investigation of accident involving aircraft of United States registry NC30286 and NC35893 which occurred near Rockville, Maryland on August 22, 1942.

Notice is hereby given, pursuant to the Civil Aeronautics Act of 1938, as amended, particularly section 702 of said Act, in the above-entitled proceeding, that hearing is hereby assigned to be held on the 28th day, of August 1942, at 9:30 A. M. (EWT) in the Rockville Court House, Rockville, Maryland.

Dated at Washington, D. C., August 25, 1942.

[SEAL]

W. K. ANDREWS, JR.,  
Presiding Officer.

[F. R. Doc. 42-8341; Filed, August 26, 1942;  
11:24 a. m.]

## FEDERAL COMMUNICATIONS COMMISSION.

[Docket No. 6245]

## AIRFAN RADIO CORP., LTD.

## ORDER DENYING PETITIONS, ETC.

In re application of Airfan Radio Corporation, Ltd. (KFSD), San Diego, California, for modification of construction permit.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 18th day of August 1942;

The Commission, having under consideration (1) the petition of the above-described applicant to reconsider and grant without hearing its application for modification of construction permit (Docket No. 6245), and (2) the petition filed pursuant to the Commission's Memorandum Opinion of April 27, 1942, and being fully informed in the premises;

It is ordered, That the petitions be, and the same are hereby, denied;

It is further ordered, That the notice of issues heretofore released on the application in Docket No. 6245 be, and it is hereby, amended to read as follows:

1. To determine whether the operation of Station KFSD as proposed would be

consistent with the Standards of Good Engineering Practice, particularly with respect to the transmitter location and population residing within the blanket area (250 mv/m contour).

2. To determine what precautionary measures, if any, would be necessary to avoid causing objectionable interference to the services of other broadcast stations due to external cross-modulation, particularly in view of the distances between Station KFSD and Stations KFMB and KGB.

3. To determine whether the proposed radiating system complies with the Standards of Good Engineering Practice.

4. To determine the cost of completing the construction authorized in the construction permit No. B5-P-2259 and the financial outlay, if any, incurred in connection therewith by the applicant, prior to April 27, 1942.

5. To determine when the construction heretofore authorized in construction permit No. B5-P-2259 was actually commenced.

6. To determine what materials and equipment the applicant has on hand or available for the construction heretofore authorized in construction permit No. B5-P-2259, and the additional equipment and materials, if any, necessary for the completion thereof.

7. To determine whether the granting of this application would be consistent with the policy announced by the Commission in its Memorandum Opinion dated April 27, 1942.

8. To determine whether in view of the foregoing, the granting of this application would serve public interest, convenience and necessity.

By the Commission.

[SEAL]

T. J. SLOWIE,  
Secretary.

[F. R. Doc. 42-8337, Filed, August 26, 1942;  
10:38 a. m.]

## OFFICE OF PRICE ADMINISTRATION.

[Order 3 Under Revised Price Schedule 83—  
Radio Receivers and Phonographs]

## THE MAGNAVOX COMPANY, INC.

## PRICES FOR NEW MODEL RADIOS

On June 30, 1942, The Magnavox Company, Inc., Fort Wayne, Indiana, filed applications pursuant to Revised Price Schedule No. 83, § 1336.53 (b), for approval of maximum prices for new model radios designated in the applications as Models Nos. 5K and A3M.

Due consideration has been given to the applications and an opinion issued simultaneously herewith has been filed with the Division of the Federal Register. For the reasons set forth in the opinion and under the authority vested in the Price Administrator by the Emergency Price Control Act of 1942, it is hereby ordered:

(a) The Magnavox Company, Inc. may sell, offer to sell, or deliver the following

17 F.R. 619, 756, 1360, 1836, 2000, 2132, 2302, 3125, 3820.

new model radios at prices no higher than those specified below, exclusive of federal excise tax, f.o.b. seller's point of shipment, subject to discounts, allowances, and terms no less favorable than those customarily granted by it:

\$73.83 for Model No. 5K  
\$38.36 for Model No. A3M

(b) The requests in the applications for approval of maximum prices higher than those established by this Order No. 3 are hereby denied.

(c) This Order No. 3 may be revoked or amended by the Price Administrator at any time.

(d) Unless the context otherwise requires the definitions set forth in § 1336.60 of Revised Price Schedule No. 83 shall apply to the terms used herein.

(e) This Order No. 3 shall become effective this 26th day of August 1942.

Issued this 25th day of August 1942.

LEON HENDERSON,  
Administrator.

[F. R. Doc. 42-8322; Filed, August 25, 1942;  
12:03 p. m.]

## SECURITIES AND EXCHANGE COMMISSION.

[File No. 1-1309]

### MID-WESTERN OIL COMPANY 5¢ PAR VALUE COMMON STOCK

#### ORDER SETTING HEARING ON APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

At a regular session of the Securities and Exchange Commission, held at its office in the City of Philadelphia, Pa., on the 24th day of August, A. D. 1942.

The Los Angeles Stock Exchange pursuant to section 12 (d) of the Securities Exchange Act of 1934 and Rule X-12D2-1 (b) promulgated thereunder, having made application to strike from listing and registration the 5¢ Par Value Common Stock of Mid-Western Oil Company; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons be given an opportunity to be heard;

It is ordered, That the matter be set down for hearing at 10:00 a. m. on Tuesday, September 29, 1942, at the office of the Securities and Exchange Commission, 312 North Spring Street, Los Angeles, California, and continue thereafter at such times and places as the Commission or its officer herein designated shall determine, and that general notice thereof be given; and

It is further ordered, That John G. Clarkson, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant

or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] ORVAL L. DUBOIS,  
Secretary.

[F. R. Doc. 42-8326; Filed, August 25, 1942;  
3:51 p. m.]

[File No. 70-583]

### THE MILWAUKEE ELECTRIC RAILWAY & TRANSPORT COMPANY AND WISCONSIN ELECTRIC POWER COMPANY

#### ORDER GRANTING APPLICATION AND PERMITTING DECLARATION TO BECOME EFFECTIVE

At a regular session of the Securities and Exchange Commission held at its office in the City of Philadelphia, Pa., on the 24th day of August, A. D., 1942.

The Milwaukee Electric Railway & Transport Company, a nonutility subsidiary of Wisconsin Electric Power Company, a public utility subsidiary of The North American Company, a registered holding company, and Wisconsin Electric Power Company having filed a joint application and declaration and an amendment thereto pursuant to Section 10 and Rules U-42 and U-43 promulgated under section 12 of the Public Utility Holding Company Act of 1935, regarding the partial liquidation of The Milwaukee Electric Railway & Transport Company's capital obligations by (a) the cash purchase, at par, of 5,000 shares of its common stock, par value \$100 per share, from Wisconsin Electric Power Company, and (b) the redemption, at principal amount, of \$250,000 principal amount of its First Mortgage 4% Bonds; Wisconsin Electric Power Company being the owner of all of the outstanding securities of The Milwaukee Electric Railway & Transport Company; such securities consisting of \$9,200,000 principal amount of 4% bonds which are pledged under Wisconsin Electric Power Company's mortgage, dated October 28, 1938, and \$24,300,000 of common stock which is a free asset; and

The application and declaration having been filed on July 24, 1942, and notice of said filing having been duly given in the form and in the manner prescribed by Rule U-23 promulgated under the Act, and an amendment to said application and declaration having been filed on August 5, 1942, and the Commission not having received a request for a hearing with respect to the application and declaration within the period specified in said notice, or otherwise, and not having ordered a hearing thereon; and

The Commission finding with respect to said application under section 10 of said Act that no adverse findings are necessary under sections 10 (b), 10 (c) (1) and 10 (f) and the Commission deeming it appropriate in the public interest and in the interest of investors and consumers to grant the application, as amended, and to permit the declaration, as amended, to become effective;

It is hereby ordered, Pursuant to said Rule U-23 and the applicable provisions of said Act and subject to the terms and conditions prescribed in Rule U-24, That the aforesaid application, as amended, be and the same hereby is granted and that the aforesaid declaration, as amended, be and the same hereby is permitted to become effective forthwith.

By the Commission.

[SEAL] ORVAL L. DUBOIS,  
Secretary.

[F. R. Doc. 42-8325; Filed, August 25, 1942;  
3:51 p. m.]

[File No. 59-12]

### ELECTRIC BOND AND SHARE CO., ET AL.

#### NOTICE OF FILING OF PETITION FOR EXTENSION OF TIME AND ORDER FOR HEARING

In the Matter of Electric Bond and Share Company, American Power & Light Company, Pacific Power & Light Company, Electric Power & Light Corporation, Utah Power & Light Company, National Power & Light Company, and Ebasco Services Incorporated, respondents.

At a regular session of the Securities and Exchange Commission, held at its office in the City of Philadelphia, Pennsylvania, on the 24th day of August, A. D. 1942.

The Commission having heretofore, on August 23, 1941, entered its order herein, pursuant to section 11 (b) (2) of the Public Utility Holding Company Act of 1935, requiring (a) that the existence of National Power & Light Company be terminated and that said Company be dissolved and (b) that National Power & Light Company and Electric Bond and Share Company proceed with due diligence to submit to the Commission a plan or plans for the prompt dissolution of National Power & Light Company, pursuant to section 11 (b) (2) of the Act;

Notice is hereby given that National Power & Light Company, on August 5, 1942, filed a petition herein requesting the Commission to enter an order under section 11 (c) of the Act extending for one year the time for compliance with said order of dissolution dated August 23, 1941.

All interested parties are referred to said petition which is on file in the office of the Commission for full details thereof.

It appearing to the Commission that it is appropriate in the public interest and in the interest of investors and consumers that a hearing be held for the purpose of considering said petition;

It is ordered, That a hearing on said petition be held on September 15, 1942, at 10:00 A. M. in the forenoon of that day at the office of the Securities and Exchange Commission, 18th and Locust Streets, Philadelphia, Pennsylvania, in such room as may be designated on such date by the Hearing Room Clerk. All persons desiring to be heard or other-

wise wishing to participate in the proceedings, should notify the Commission in the manner provided by the Commission's Rules of Practice, Rule XVII, on or before September 10, 1942. At said hearing attention will be particularly directed to the questions whether National Power & Light Company has exercised due diligence in its efforts to comply with the Commission's order of August 23, 1941, and whether an extension of time for compliance with said order is necessary or appropriate in the public interest or for the protection of investors or consumers.

*It is further ordered*, That William W. Swift or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearing above ordered. The officer so designated to preside at such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of the Act and to a trial examiner under the Commission's Rules of Practice.

*It is further ordered*, That the Secretary of the Commission shall serve notice of the entry of this order by mailing a copy thereof by registered mail to National Power & Light Company and to

Electric Bond and Share Company, and that notice shall be given to all other persons by publication thereof in the FEDERAL REGISTER.

By the Commission.

[SEAL]

ORVAL L. DuBOIS,  
Secretary.

[F. R. Doc. 42-8339; Filed, August 26, 1942;  
10:46 a. m.]

[File No. 70-585]

#### EASTERN LAND CORPORATION

#### ORDER PERMITTING DECLARATION TO BECOME EFFECTIVE

At a regular session of the Securities and Exchange Commission held at its office in the City of Philadelphia, Pa., on the 24th day of August, A. D. 1942.

Eastern Land Corporation, a wholly-owned subsidiary of Associated Electric Company, a registered holding company, having filed a declaration pursuant to section 12 (c) of the Public Utility Holding Company Act of 1935 and Rule U-46 promulgated thereunder, regarding the declaration and payment of a dividend of \$36,000 out of capital or unearned

surplus to Associated Electric Company; and

Such declaration having been filed on July 30, 1942 and notice of said filing having been duly given in the form and manner prescribed by Rule U-23 promulgated pursuant to said Act and the Commission not having received a request for a hearing with respect to said declaration within the period specified in said notice, or otherwise, and not having ordered a hearing thereon; and

The Commission deeming it appropriate in the public interest and in the interest of investors and consumers to permit the said declaration pursuant to Rule U-46 to become effective, and finding that the requirements of section 12 (c) are satisfied;

*It is hereby ordered*, Pursuant to Rule U-23 and the applicable provisions of said Act and subject to the terms and conditions prescribed in Rule U-24 that said declaration be, and hereby is, permitted to become effective forthwith.

By the Commission.

[SEAL]

ORVAL L. DuBOIS,  
Secretary.

[F. R. Doc. 42-8338; Filed, August 26, 1942;  
10:46 a. m.]

